

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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UNITED STATES OF AMERICA, : **CASE NO. 1:20-CR-0077**
 :
 Plaintiff, : **JURY TRIAL, DAY 19**
 vs. :
 : **27th of February, 2023**
 LARRY HOUSEHOLDER, et al. :
 :
 Defendant. :

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TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE TIMOTHY S. BLACK, JUDGE

- - -

APPEARANCES:

For the Plaintiff:

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1 For the Defendant, Matthew Borges:

2 Karl Herbert Schneider, Esq.
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5 Also present: Larry Householder
6 Matthew Borges
7 Blane Wetzel, FBI Special Agent
Kelly Terry, paralegal
PJ Jensen, trial tech

8 Law Clerk: Cristina V. Frankian, Esq.

9 Courtroom Deputy: Rebecca Santoro

10 Stenographer: Lisa Conley Yungblut, RDR, RMR, CRR, CRC
11 United States District Court
12 100 East Fifth Street
13 Cincinnati, Ohio 45202
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PROCEEDINGS

(Proceedings held in open court at 9:28 a.m.)

THE DEPUTY: All rise. This United States District Court for the Southern District of Ohio is now in session, The Honorable Timothy S. Black, District Judge presiding.

THE COURT: Please be seated, thank you. Good morning. We're here on the open -- in the open courtroom awaiting the jury. Government team is here.

Mr. Householder's team is here. Mr. Borges' team is here.

Mr. Marein is excused from participation today at his request again.

Are we ready for the jury from the government's perspective?

MS. GAFFNEY-PAINTER: Yes, Your Honor.

THE COURT: From Mr. Householder's perspective?

MR. OLESKI: Yes.

THE COURT: Mr. Borges' perspective?

MR. SCHNEIDER: Yes.

THE COURT: Let's call for the jury. Someone is prepared to get the witness?

MS. GAFFNEY-PAINTER: Yes, Your Honor.

THE COURT: Very well.

(Pause.)

THE DEPUTY: All rise for the jury.

(Jury entered the courtroom at 9:32 a.m.)

1 THE COURT: You may all be seated. Thank you.
2 Good morning to the 14 jurors who have arrived in the
3 courtroom again timely and ready to go. It's kind of a
4 rainy day out there, good day to spend inside, that's what
5 we anticipate.

6 During the course of the trial, we've taken a number of
7 recesses as we call them, breaks, we sent you upstairs and
8 you have to hang out and wait on us. Understand and
9 appreciate, I promise, we're at work down here outside your
10 presence as required by law. Nobody is sleeping or watching
11 movies or having chocolate. We're on it. But it leaves you
12 upstairs wondering, my goodness, are they wasting my time?
13 I assure you from the depths of my heart and training, we're
14 not wasting your time. You have come a long way. We have
15 an important week, and I'm grateful to you on behalf of the
16 Court and the community for your close attention.

17 We will continue taking testimony. Government is
18 prepared to call its last witness in its case-in-chief.
19 When they're done, I'm going to have to take a break, talk
20 to the lawyers about stuff I need to talk to them and them
21 alone. If it's a longer break, I apologize, but try and
22 find strength to enjoy the time off and come back ready to
23 go, as you have day after day after day.

24 So with that, is the government prepared to call its
25 next witness?

1 MS. GAFFNEY-PAINTER: Yes, Your Honor.

2 THE COURT: Please do so.

3 MS. GAFFNEY-PAINTER: The government calls Tyler
4 Fehrman.

5 THE COURT: Very well. This is Mr. Fehrman. If
6 you would follow the lady with red hair in front of you and
7 when you get here, would you pause, sir, where you are and
8 raise your right hand for the oath to tell the truth?

9 (Witness left the stand and was sworn.)

10 THE COURT: Come up to the witness stand. I tell
11 everybody the chair tips back in the spirit of full
12 disclosure. Once you're comfortable and seated, I need your
13 mouth close to that fancy federal microphone.

14 THE WITNESS: Thank you.

15 THE COURT: Government attorney is prepared and you
16 may proceed.

17 MS. GAFFNEY-PAINTER: Thank you, Your Honor.

18 THE COURT: Very well.

19 MS. GAFFNEY-PAINTER: Good morning, Mr. Fehrman.

20 THE WITNESS: Good morning.

21 **TYLER FEHRMAN**

22 of lawful age, Witness herein, was examined and testified as
23 follows:

24 **DIRECT EXAMINATION**

25 **BY MS. GAFFNEY-PAINTER:**

1 **Q** Will you please state and spell your name for the
2 record?

3 **A** Yes. Tyler Fehrman, T-Y-L-E-R, F-E-H-R-M-A-N.

4 **Q** Mr. Fehrman, where do you work?

5 **A** I work for World Kinect Energy Services.

6 **Q** And what is your title?

7 **A** Director of renewable energy -- I'm sorry, director of
8 renewable energy developer relations.

9 **Q** What is your educational background?

10 **A** I have a bachelor's degree in business administration
11 from Mount Vernon Nazarene University and a master's in
12 public administration from Ohio University.

13 **Q** Now, was there ever a time during your professional
14 career where you worked in politics?

15 **A** Yes.

16 **Q** And when did you first get involved in politics
17 professionally?

18 **A** Professionally, in 2008.

19 **Q** And what did you do in 2008?

20 **A** 2008, I was hired by the Ohio Republican Party to
21 serve as a field manager for the McCain for President
22 campaign.

23 **Q** During the course of your professional life, did you
24 ever meet a man named Matthew Borges?

25 **A** Yes, I did.

1 **Q** When did you meet him?

2 **A** Probably would have been during the McCain for
3 President campaign or sometime shortly after, around
4 somewhere between 2008 and 2010.

5 **Q** Would you describe for us the relationship you had
6 with Mr. Borges from 2008 through 2019?

7 **A** Yeah. So Matt was a big deal in Ohio politics, and as
8 a young political operative, somebody you kind of wanted to
9 be close to, get to know. I really got to know him as a
10 worked on the Kasich for Governor campaign in 2010. Had
11 always seen him around kind of tangentially and just kind of
12 tried to pay attention to what he was doing. Kasich was
13 elected president [sic] and Matt became the Chairman of the
14 Ohio Republican Party. We had built sort of a friendly
15 rapport and then got to know each other better over the
16 years, saw each other at events regularly, and I found
17 myself, you know, again, as a young operative, you're kind
18 of like well, how do I get close to the big guys? So I
19 tried to find ways to do that and build a relationship. Saw
20 each other at campaign events, different political
21 functions, and then in -- in 20- -- goodness, 20- -- 2018, I
22 was hired to manage some campaigns, some State
23 Representative campaigns in Franklin County and Matt and I,
24 at that point, had become pretty good friends. When he ran
25 for reelection as chairman of the Ohio Republican Party

1 in 20- -- it would have been January of 2017, he had
2 opposition. There was a shift in the political winds in
3 Ohio, and I had shown up at the meeting to help support him
4 and made it very clear whose side I was on in that battle
5 for the chairmanship, considered him a good friend and a
6 mentor by that point. And then progressing into that, 2018
7 was hired to run the campaigns. We had communicated
8 regularly. I had found myself in a little bit of a tough
9 spot professionally trying to figure out what was next and
10 had regularly sought his advice and counsel on what might be
11 available work-wise, and then again, 2018 was hired to run
12 these campaigns. Matt was my primary point of contact. We
13 spoke very regularly, communicated about the campaigns but
14 also just as friends, Sunday afternoons were usually texting
15 back-and-forth about Patriots football, born and raised in
16 Ohio, but die-hard Pats fan, so... and then after those
17 campaigns, in 2018, I went back to work for the State of
18 Ohio. Matt was instrumental in kind of helping me make some
19 connections there again and get my foot back in the door.
20 And then in the summer of 2019, left the State of Ohio and
21 was looking for another opportunity, and as I looked for
22 that, would stop by Matt's office or hop on the phone, text
23 back-and-forth about opportunities that might be available,
24 looking for my next thing. Matt, in the winter of 2018 and
25 very beginning of 2019, also paid me to do some work for

1 him, lobbying some federal issues, helping out with that.
2 So he was just -- he had become a friend and a mentor,
3 somebody I looked up to and had really helped provide me
4 some good opportunities professionally.

5 **Q** Now, you mentioned that you were running or working on
6 campaigns in 2018. Which campaigns were you working on?

7 **A** So in the winter and spring of 2018, I was working on
8 the Tim Barhorst for State Representative campaign in the
9 19th -- then the 19th District, which was the northeastern
10 Franklin County, as well as Stu Harris for State
11 Representative, which would have been sort of the northwest
12 portion of Franklin County.

13 **Q** Now, did you work on those campaigns for the primary
14 and the general, just the primary, just the general, what
15 was the nature of your work there?

16 **A** So both of those campaigns I worked on in the primary
17 and then after the primary, went on to be the manager for
18 the Stu Harris campaign. Still, like, communicated with
19 folks on the Barhorst campaign but was the primary contact
20 for Stu Harris.

21 **Q** Now, during that time that you were managing those
22 campaigns, who paid for you, who paid for your work?

23 **A** So it was different. In the primary, I had been
24 asked -- I was approached by Matt as well as Doug Price, the
25 then-chairman of the Franklin County Republican Party, and

1 asked if I'd be willing to manage those two campaigns. They
2 said we have an opportunity for you. At that point, all of
3 us working in Republican politics in Ohio knew that Larry
4 Householder wanted to be Speaker of the House again, and --

5 MR. GLICKMAN: Objection, Judge.

6 THE COURT: Overruled. Please proceed.

7 THE WITNESS: And we -- and he had a full slate of
8 candidates in the primary that were all running, folks that,
9 you know, he knew would support him in the race for Speaker.

10 MR. GLICKMAN: Objection, Judge.

11 THE COURT: Sustained. Ask the question again. He
12 doesn't know what other people knew.

13 **Q** Yes. If you could just talk about who was paying for
14 your work while you were working on these campaigns.

15 **A** Yeah. So for the primary campaigns, I was paid
16 directly by Matt, by the Franklin County Republican Party
17 and Doug Price, the then-chairman of the party. And then
18 for the general election, I was hired as a member of what
19 was referred to as "Team Householder" and paid -- my checks,
20 I believe, were signed by JPL & Associates.

21 **Q** Now, in the summer of 2019, where were you working?

22 **A** In the summer of 2019, at the beginning of the summer,
23 I was working at the Ohio Department of Public Safety. I
24 left there at the end of June and so beginning in mid-August
25 was working for Advanced Micro Targeting, Incorporated, as

1 one of their managers for the House Bill 6 repeal campaign.

2 **Q** Now, before you took that position with Advanced Micro
3 Targeting, did you speak with Mr. Borges about it?

4 **A** Yes, I did.

5 **Q** What did he tell you about that opportunity?

6 **A** I was concerned when I was offered the position or was
7 being considered for the position because I knew that Matt
8 was going to be on the opposite side. He was a proponent of
9 House Bill 6, and I was being offered a job to help repeal
10 it. And I didn't want to damage the personal or
11 professional relationship, and so I went to Matt and let him
12 know, asked him what he thought. He was very friendly about
13 it, told me that that's business, that's politics sometimes,
14 don't worry about it, you should take it if given the
15 opportunity and best of luck.

16 **Q** Now, in connection with your employment by Advanced
17 Micro Targeting, did you sign a contract?

18 **A** Yes, I did.

19 MS. GAFFNEY-PAINTER: Your Honor, may we please
20 have permission to publish what's already been admitted as
21 Exhibit 624 B?

22 THE COURT: Yes. Give us just a minute, we'll wake
23 up the machine.

24 **Q** Mr. Fehrman, do you see Government's Exhibit 624 B on
25 the screen in front of you?

1 **A** Yes, I do.

2 **Q** Now, is this your employment contract with Advanced
3 Micro Targeting?

4 **A** Yes, ma'am.

5 **Q** What was your title with Advanced Micro Targeting?

6 **A** If I recall correctly, it was field manager.

7 **Q** And what were --

8 **A** Or project manager. I'm sorry.

9 **Q** No, excuse me. I shouldn't interrupt you.

10 Project manager or field manager, what were your
11 responsibilities as a project manager or a field manager?

12 **A** It varied on a daily basis. It involved training,
13 professional canvassers on how to gather signatures for the
14 referendum effort as well as training them how to speak to
15 the referendum so that they were presenting accurate
16 information. And it involved trying to find canvassers,
17 identifying good candidates for the job, interviewing them,
18 if they were a good fit, collecting and processing their
19 information to get them hired. That was more the
20 administrative side. There were days where I was in the
21 field collecting signatures. There were days where every
22 day it was checking in on canvassers. We would send them
23 out in teams all around various counties in central Ohio and
24 then elsewhere later on. Doing sort of spot-checks to make
25 sure they were doing their job, make sure that they had what

1 they needed, and that they were taken care of.

2 **Q** What was your salary?

3 **A** It started at \$5,000 a month and then it was raised to
4 \$6,000 a month.

5 **Q** And what were the circumstances around the raise that
6 you received?

7 **A** The workload was a little bit more than we
8 anticipated. It was a large referendum effort. It was also
9 realized just very shortly into my start with Advanced Micro
10 Targeting that I -- they were a company from out of state,
11 and I had a lot of connections in Ohio and knew a lot of the
12 folks running the actual campaign committee, and so instead
13 of just handling the day-to-day for the canvassers in
14 central Ohio, I began handling other duties, like meeting
15 some of the folks who were funding the repeal effort,
16 showing them our facilities, taking them to meet canvassers
17 in the field, and just sort of helping do some of that --
18 some of the internal public relations work as well as
19 helping manage other regions, northern Ohio, the Cleveland
20 area, and then Dayton and Cincinnati as well.

21 **Q** Now, describe for us just a typical work day back in
22 2019 when you were working for Advanced Micro Targeting.

23 **A** I will do my best. I don't know that there was a
24 "typical" work day. It normally started at around 7 or 7:15
25 a.m. meeting the team in the Columbus region at their hotel,

1 providing them their daily turf, which is what we call just
2 sort of the area that they were assigned to canvas that
3 specific day, which could be a series of libraries, grocery
4 store parking lots, think of any of the places that you
5 might be annoyed by someone trying to collect your
6 signature. We would try to research the best places, the
7 busiest places for our folks to go and gather signatures.
8 So it began with meeting them and sending them off.

9 Then, typically, I would head to my office in
10 Worthington, Ohio, and would have a slate of interviews to
11 conduct. So 10 or 11 people sometimes that would come one
12 after the other and just kind of talk about why they were
13 interested in the job. If we liked them, a lot of times we
14 would hire them on the spot and begin processing their
15 paperwork. And then I'd begin, sometime after lunch,
16 conducting spot-checks and checking in on my team. That
17 would take several hours, you know, afternoon, sometimes
18 into the early evening.

19 And then we would -- everyone knew they were supposed
20 to be back to the office by about 9:00 p.m., so they would
21 stop working around 8:30 and make their way back. Then at
22 9:00 p.m., everyone would come back to the office in
23 Worthington. I would collect all of their signature sheets,
24 have them fill out the information on the back. You have to
25 make sure that it's very specifically accurate to ensure

1 that it's able to be validated. Then they would leave and I
2 would stay with our processing team and tally the number of
3 signatures for the day, organize it per gatherer, and then
4 turn it over to a team that would take it to a separate
5 secured location to begin scanning and validating what we
6 had so we could look at accuracy rates and figure out what
7 our -- what our running total signature count was.

8 **Q** How many hours a week were you working?

9 **A** Oh, goodness, most days were 15, 16 hours long,
10 seven days a week. Yeah. I'm not great at math on the
11 spot, but very long days, seven days a week.

12 **Q** Were you given any instructions about how to treat the
13 signatures that you were receiving?

14 **A** Yes. We were made -- it was made very clear to myself
15 and the others on the team that we needed to treat the
16 signatures with -- essentially protect them with whatever we
17 could, so ensure that they were locked up at the end of the
18 day, make sure that they were never out of our sight before
19 we were locked up, and just to keep extra close watch on any
20 and every piece of paper that had legal signatures on it.

21 MS. GAFFNEY-PAINTER: Your Honor, may we please
22 have permission to publish what's already been admitted as
23 Government Exhibit 621 A?

24 THE COURT: Yes.

25 **Q** Now, Mr. Fehrman, looking here at Government

1 Exhibit 621 A, just generally, what are we seeing here?

2 **A** This is a text message between myself and Matt Borges.

3 **Q** And what is the date on the top exchange here?

4 **A** Sunday, September 1st.

5 **Q** And was this after you had started your job with
6 Advanced Micro Targeting?

7 **A** Yes.

8 **Q** And the top message reads: Let's meet for coffee
9 tomorrow. Did you in fact meet with Mr. Borges for coffee?

10 **A** Yes, I did.

11 **Q** What happened at that meeting?

12 **A** At that coffee meeting, you know, I went to the job
13 knowing we were on opposite sides, but we still
14 communicated, agreed to meet for coffee, went and sat down.
15 It seemed friendly like it normally would have when we would
16 get together and talk. But the conversation turned pretty
17 quickly. Matt talked to me about how he wanted information
18 about the campaign. He asked kind of well, how are you
19 doing, what do things look like, how's it going, and then
20 essentially made offers to me about how I could be taken
21 care of. He asked if I had a car note. He asked about debt
22 that I had that we had communicated about in the past
23 related to my professional circumstances. He asked how much
24 there was outstanding and said essentially that all of that
25 could be taken care of, that he had been well taken care of,

1 and that all he needed was information on what was going on
2 related to the House Bill 6 repeal.

3 **Q** Now, how did you leave that meeting with Mr. Borges?

4 **A** Feeling very upset, shaken. I had never been put in a
5 situation in my career where I had been asked to do
6 something like that, something that I immediately knew was
7 just absolutely wrong. I think during the meeting I was
8 shocked and tried to hide it but left feeling very
9 conflicted having been asked by someone I looked up to,
10 someone who knew details about my personal life, my personal
11 situation, been asked to do something that was wrong but had
12 been -- those things had been used as leverage to try and
13 get me to do that. If felt -- it was very upsetting.

14 **Q** Now, during that first meeting with Mr. Borges, what
15 was your response to this offer he extended you?

16 **A** Yeah. My response, as best I remember, was, I need
17 some time to think about it. I'd like to have the night to
18 sleep on it. And I will get in touch with you tomorrow.

19 **Q** What did you do immediately after that coffee meeting
20 with Mr. Borges?

21 **A** Immediately after that meeting, I called a dear friend
22 who I trust very much and explained to him what had taken
23 place, explained that I felt very uncomfortable, that it
24 seemed incredibly wrong, and that I felt that I didn't -- it
25 didn't feel like just a request to do something wrong, but

1 that I felt threatened in a way, that I felt very uneasy
2 because of the way things had been presented. So I spoke to
3 that friend who counseled me that I should probably speak to
4 someone about it, that I should probably report it.

5 **Q** Now, you testified that when you left the meeting with
6 Mr. Borges, you said you needed the night to think about it
7 and would respond. Did you ever respond back to Mr. Borges
8 after that coffee meeting?

9 **A** Yes, I did. I did not take the night. I spent a few
10 hours just sort of in shock, spoke with my friend, and then
11 later that afternoon sent him a text message letting him
12 know that I was not interested in taking part in what he had
13 offered.

14 MS. GAFFNEY-PAINTER: Your Honor, may we please
15 have permission to publish three exhibits? They have all
16 been admitted and they represent sequential screenshots of
17 the same text. It's Government's Exhibit 621 B, Government
18 Exhibit 621 C, and Government Exhibit 621 D.

19 THE COURT: Yes.

20 MS. GAFFNEY-PAINTER: And, Ms. Terry, if we could,
21 please, have 621 B on the left-hand side of the screen and
22 621 C on the right-hand side of the screen. Thank you.

23 **Q** Mr. Fehrman, will you please read this text message
24 that appears here?

25 **A** Yes. Hey, I've thought about it. I don't need

1 overnight. At the beginning of this, I thought I could walk
2 my information into Larry's office and sell it for enough to
3 retire on. That's what I've used as motivation to keep
4 working long hours, be away from my family and meet the
5 expectations of the people on this project, but I didn't
6 think I would actually be given the option to choose. I've
7 struggled since 2016 to get things back on track. I've got
8 debt. I've got a shit car. Just sold my motorcycle and
9 need a permanent job after this thing is done in 50 days.
10 Part of the lesson I've been trying to learn is working hard
11 to earn what I have instead of relying on political favors
12 to get me by. I would love to have those wiped out, to be
13 debt free and not have to worry, but I can't put a price tag
14 on my integrity or my word. You've been a good friend and
15 loyal mentor and I appreciate everything you've done for me
16 more than you know. But you obviously chose to invest in me
17 because you thought I was trustworthy on some level. I
18 wouldn't be the guy you chose to invest in, the guy who
19 showed up for you at the central committee meeting in 2017
20 with your sticker if I sold this team down the river. My
21 word is my word. My integrity is literally all I've got
22 right now and I'm not willing to sell it. So it may not
23 land me in the car, house, job or financial -- and then
24 that's the end.

25 Q Thank you, Mr. Fehrman.

1 MS. GAFFNEY-PAINTER: Now, Ms. Terry, if we could
2 please display Government Exhibit 621 D.

3 Q And, Mr. Fehrman, if you could complete your read of
4 the blue text that appears at the top of this screenshot.

5 A Yeah. So it may not land me in the car, house, job or
6 financial situation I want to be in, but I couldn't face
7 myself if I did anything but work for this and do it
8 honestly.

9 Q And, Mr. Fehrman, to be clear, this is the text
10 message that you sent to Mr. Borges; is that right?

11 A Yes, it is.

12 Q Now, will you please read for us the two gray texts
13 that appear after the blue text that you just read?

14 A Um-hmm. Okay. Just keep me posted as a friend on how
15 you guys are doing. That's all I really -- that's really
16 all I need to know. Thanks. And no matter what, don't ever
17 tell anyone about our conversation from earlier. Thanks.

18 Q Now, what did you do after you got the text message
19 from Mr. Borges reading: No matter what, don't ever tell
20 anyone about our conversation from earlier?

21 A I called my friend again and said, I need to talk to
22 someone, but I'm not sure who or how to reach them.

23 Q And what happened next?

24 A My friend put me in contact with the FBI.

25 Q And describe for us that contact you had with the FBI.

1 **A** Initially, it was a phone call. I had a conversation
2 on the phone with Special Agent Blane Wetzel and just kind
3 of gave some high-level detail as to the conversation that I
4 had had and my concerns related to it, and then he asked me
5 if I would be willing to have a meeting, to sit down and
6 discuss what had taken place, and I agreed to it.

7 **Q** And did that meeting actually take place?

8 **A** Yes, it did.

9 **Q** Where was that meeting?

10 **A** That meeting was at a Graeter's Ice Cream shop in
11 Columbus, Ohio, in Worthington, Ohio.

12 **Q** Who was present for that meeting?

13 **A** Myself and Special Agent Wetzel.

14 **Q** What did Special Agent Wetzel ask you to do?

15 **A** After I detailed the conversation to him, as well as
16 my concerns, he asked me if I would be willing to approach
17 Matt and agree to what he had originally requested of me
18 while working in cooperation with the government to kind of
19 document those conversations.

20 **Q** Did you accept that offer at that time?

21 **A** I did.

22 **Q** Now, we're not going to go through all of the
23 recordings and videos that were made with your contact with
24 Mr. Borges but we are going to walk through some of them.

25 **A** Okay.

1 MS. GAFFNEY-PAINTER: Your Honor, may we please
2 have permission to publish what's been admitted as
3 Government's Exhibit 614 C?

4 THE COURT: Yes.

5 MS. GAFFNEY-PAINTER: May the jury please have
6 permission to follow along with the transcript that's been
7 marked for identification as Exhibit 614 D?

8 THE COURT: Yes. Give us a moment to pull that up.
9 So we're looking for Exhibit 614 D as in "duck"?

10 MS. GAFFNEY-PAINTER: Yes.

11 THE COURT: Give us a moment.

12 MS. GAFFNEY-PAINTER: Sure.

13 THE COURT: Very well.

14 (Video playing.)

15 **Q** Mr. Fehrman, there was a reference to Brandon in
16 there. Who is Brandon?

17 **A** Brandon Lynaugh, he was the -- one of the three people
18 running the campaign committee to repeal.

19 **Q** You also made reference to Matt Borges' New England
20 Patriots Super Bowl hat. What are you referring to there?

21 **A** In 2018 or January of 2019, the New England Patriots
22 went to the super bowl, and being a big fan, I was excited,
23 texted back-and-forth a lot with Matt about it, and Matt
24 went to the game. I was extremely jealous, and he actually
25 went to the game and brought me back a victory hat from the

1 game that I had put in the back window of my car next to a
2 little Patriots decal. It's an unpopular thing to do in
3 Ohio, but that hat rode in the back window of the car.

4 **Q** On that recording, Mr. Borges made a comment: That
5 would be bad for both of us if a story like that came out,
6 but it would be worse for you. How did you interpret that
7 line?

8 **A** I interpreted it to be extremely demeaning,
9 essentially him reminding me that I was a small fish and
10 that he had quite a bit of authority and influence inside
11 the space that we both worked.

12 MS. GAFFNEY-PAINTER: Your Honor, may we please
13 have permission to publish the following exhibits, all of
14 which have been admitted and which constitute a continuing
15 text exchange? First we would request permission to publish
16 Government Exhibit 621 E?

17 THE COURT: Yes.

18 MS. GAFFNEY-PAINTER: And then we would request
19 permission to publish Government Exhibit 621 I?

20 THE COURT: Yes.

21 MS. GAFFNEY-PAINTER: Permission to publish
22 Government Exhibit 621 J?

23 THE COURT: Yes.

24 MS. GAFFNEY-PAINTER: Government Exhibit 621 K?

25 THE COURT: Yes.

1 MS. GAFFNEY-PAINTER: Government Exhibit 621 M?

2 THE COURT: Yes.

3 MS. GAFFNEY-PAINTER: And Government Exhibit 621 O?

4 THE COURT: Yes.

5 MS. GAFFNEY-PAINTER: Now, Ms. Terry, will you
6 please pull out for us from Government Exhibit 621 E, the
7 top three texts that appear on that screenshot?

8 **Q** All right. Mr. Fehrman, will you please read this
9 text exchange that appears here?

10 **A** Yes. Yo, I'm free. Heading that way now. Get me a
11 copy of your employment contract. I'll make you an offer to
12 buy you out. It will be substantial. Make sure you didn't
13 sign an NDA.

14 **Q** In this text exchange, Mr. Fehrman, Mr. Borges asks
15 you to get a copy of your employment contract. Did you in
16 fact send Mr. Borges a copy of your employment contract?

17 **A** Yes, I did.

18 MS. GAFFNEY-PAINTER: All right. Ms. Terry, may we
19 please publish Government Exhibit 621 I. And if you could,
20 pull out the bottom six text messages there, please.

21 **Q** And, Mr. Fehrman, if you could read this text exchange
22 for us and just indicate when Mr. Borges is texting and when
23 you are texting.

24 **A** Yes. So we'll start with, the gray is from Matt:
25 Give me a day or two to figure this out. What e-mail did

1 you send it to?

2 And then the next is me, said: Your Roetzel one, I
3 think that's the only one I have, let me make sure it sent.
4 Just went through. He said: Thanks. And then a little
5 while later said: Have you guys started door to door?

6 **Q** All right.

7 MS. GAFFNEY-PAINTER: Ms. Terry, may we please
8 publish Government Exhibit 621 J. And if you could, please,
9 highlight and pull out those bottom three text messages that
10 appear there?

11 **Q** And, Mr. Fehrman, if you could read these for us,
12 please.

13 **A** Have you guys started door to door?

14 No. It's not a part of the plan as far as I know. I
15 don't think it would be effective, too much time spent
16 walking and driving.

17 MS. GAFFNEY-PAINTER: Now, Ms. Terry, if you will,
18 please, publish Government Exhibit 621 K.

19 **Q** And, Mr. Fehrman, if you could please read the whole
20 exchange starting with the gray box people.

21 **A** Yes. People are starting to report getting folks at
22 their doors. So just want to check. Could be a head fake.
23 Don't know.

24 My response: That's odd. Definitely nothing on my
25 end door-wise. We had a lady tell one of our people that

1 she had been hired to follow petitioners and report their
2 locations.

3 Matt: Nice. Any idea what the count looks like at
4 this point? Just want to nail down the opportunity we
5 discussed. Thanks.

6 Not immediately, but I should have access to some of
7 that tonight and tomorrow. I also don't want to share too
8 much without some guarantee I'm not going to get fucked.
9 Not you, just me trying to be careful on all of this.

10 MS. GAFFNEY-PAINTER: Now, Ms. Terry, may we please
11 publish Government Exhibit 621 M? And if we could please
12 highlight the bottom five texts that appear here? Or excuse
13 me, Ms. Terry, my mistake, may we please pull out the bottom
14 six text messages there? Thank you.

15 **Q** Mr. Fehrman, will you please read this exchange?

16 **A** Yes. Yep, I can get this done. They just want to
17 know they have the right source. So a data point here will
18 help me get it finalized. Ballpark for my region without
19 having exact specifics or knowing our validity rate is
20 around 7500. How many regions? Thanks. They've got it
21 broken up weird. I think nine. Got it, I'll get this done.

22 Just let me know.

23 **Q** Now, Mr. Fehrman, you text here "validity rate." For
24 those of us who aren't familiar, what were you referring to
25 with validity rate?

1 **A** Yeah. When you're collecting signatures for a
2 referendum effort or any kind of ballot issue campaign, it's
3 essentially guaranteed that not every signature is going to
4 be valid. Someone might write their name incorrectly, they
5 might write their address incorrectly, they may not be a
6 registered voter or they might be registered at a different
7 address than they put on the paper. Just, there's room for
8 error. And so when you receive signatures of this nature,
9 you have to validate them by running them against a voter
10 database and that essentially provides a validity rate. So
11 you can take a look at a hundred signatures and have a
12 validity rate of 70, 75 percent, and that helps you
13 understand, you know, if you've got to get 400,000
14 signatures, they have to be 400,000 valid, and so you
15 calculate how many more you need based on the validity rate,
16 not on the raw signature count.

17 MS. GAFFNEY-PAINTER: Ms. Terry, will you please
18 publish Government Exhibit 621 O?

19 **Q** And, Mr. Fehrman, will you please read this entire
20 text exchange that appears here?

21 **A** Yes. Let's meet for coffee tomorrow. I'd do today
22 but have to be on the road this afternoon. How about those
23 fucking Patriots?

24 Cool. Time place? Also, oh, my God, that football
25 game.

1 **Q** Now there's reference in this text exchange to a
2 meeting. Did you in fact meet with Mr. Borges after this
3 text exchange?

4 **A** I believe so, yes.

5 **Q** And where did you meet with them?

6 **A** It would have been at a Starbucks in Columbus, Ohio.

7 **Q** Did you record that meeting on behalf of the FBI?

8 **A** Yes.

9 MS. GAFFNEY-PAINTER: Now, Your Honor, we
10 previously admitted Government Exhibit 615 A, which was the
11 audio from that meeting and Government Exhibit 615 B, which
12 was the video, and we combined them into a demonstrative
13 that we marked for identification as 615 D. May we please
14 have permission to publish the demonstrative marked as
15 Government's Exhibit 615 D?

16 THE COURT: Any objections?

17 MR. SCHNEIDER: No.

18 MR. GLICKMAN: No, Judge.

19 THE COURT: You may.

20 MS. GAFFNEY-PAINTER: Your Honor, we will only be
21 publishing select portions from this demonstrative. And we
22 would request permission for the jury to follow along with
23 the transcript that has been marked for identification as
24 Government Exhibit 615 C?

25 THE COURT: Very well.

1 MS. GAFFNEY-PAINTER: And for the ease of the
2 jurors, the transcript will begin on page 5 for the segment
3 that we intend to publish.

4 THE COURT: 615 C as in "Charlie," page 5; is that
5 right, Counsel?

6 MS. GAFFNEY-PAINTER: That's correct, Your Honor.

7 THE COURT: All right. Give us just a moment.

8 MS. GAFFNEY-PAINTER: And while everyone is getting
9 situated, I would just like to note for the record that the
10 portion that we will be publishing of 615 D begins at
11 4 minutes and 17 seconds and will be ending at 13 minutes,
12 36 seconds.

13 THE COURT: Very well. You may proceed.

14 MS. GAFFNEY-PAINTER: Thank you, Your Honor.

15 (Video playing.)

16 **Q** Now, Mr. Fehrman, there was a reference in that
17 segment to environmental council. Will you please explain
18 that to us?

19 **A** Yeah. The Ohio Environmental Council was an
20 organization active in the repeal effort who also had
21 several -- or at the time, a full-time position they were
22 hiring for that I was interested in. I had applied for the
23 job. I think in the recording I mentioned that I had
24 applied for it in July and was still waiting to hear back on
25 whether or not I would have a shot at going to work there.

1 I wanted to go work with the organization full time.

2 **Q** Is that also known and referred to in that segment as
3 "OEC"?

4 **A** Yes, it is.

5 **Q** Now, in that segment we just listened to, you say:
6 "Good job on finding us, by the way, and I've had a lady
7 sitting outside my office watching me and the trackers out
8 in the field." Will you explain that to us?

9 **A** Um-hmm. Shortly after the canvassing efforts began,
10 my petition gatherers in the field started -- folks started
11 showing up to their -- where they were gathering. They
12 would stand nearby and yell at them or try to yell over them
13 when people attempted to sign their names. When they would
14 move locations, because it got very frustrating, those folks
15 would follow them either on foot or by vehicle to the next
16 location. And then beyond that, my office in Worthington, I
17 had someone that would regularly come and sit in the parking
18 lot.

19 One night in particular stands out, it was the final
20 night that it happened, but a lady sat in a dark SUV in the
21 parking lot and just stared at me up through the windows.
22 You could see into my conference room from the lot, just sat
23 and had followed me to the office, sat and watched me inside
24 the building.

25 **Q** Now, there was discussion in that segment about

1 "getting out from under this bad child support." Now, at
2 the time that this was recorded, were you in fact dealing
3 with child support issues?

4 **A** Yes, I was. After a period of unemployment and a
5 fairly messy divorce several years prior, had been left with
6 owing a pretty high monthly amount in child support and then
7 being unemployed, got behind and was working to pay off the
8 arrears.

9 **Q** Was Mr. Borges aware of that at that time?

10 **A** Yes, he was.

11 **Q** Now, you talked in that segment about the central
12 committee meeting and putting everything on the line. What
13 were you referencing there?

14 **A** Yeah. I referenced this a little while ago, but in --
15 it would have been January or February of 2017, Matt was
16 running for reelection as the chairman of the Ohio
17 Republican Party. It was a pretty contested race for that
18 seat between he and someone who was kind of hand-picked by
19 the incoming Trump administration. I felt like my mentor
20 and friend's role was on the line and showed up at a time in
21 Ohio when it was kind of politically tumultuous even within
22 our own political party to pick a side and I picked a side.
23 And I had a button that said -- or a sticker that said "I am
24 with Matt." I think I Tweeted that at one point and showed
25 up that day to support him and wound up being asked by the

1 then-chairman of the Franklin County Republican Party, if I
2 knew any of the central committee members on the floor when
3 there were breaks in voting, because it was deadlocked, and
4 if I could go onto the floor and try and lobby those members
5 to support Matt for chair, which I did. And so for me at
6 that time, it felt like putting quite a bit on the line
7 because I was openly saying: I'm with this faction of the
8 party, I am standing with this person, and it was during a
9 time when I was trying to figure out kind of what my next
10 career move was.

11 MS. GAFFNEY-PAINTER: Your Honor, we would now like
12 to publish a second portion of that 615 D with the Court's
13 permission?

14 THE COURT: Very well.

15 MS. GAFFNEY-PAINTER: We will be publishing for the
16 record at minute 14 and 15 seconds to minute 19 and
17 37 seconds and before we begin that, for the jury's
18 guidance, the transcript will begin on page 14 for this
19 segment.

20 THE COURT: Very well.

21 (Video playing.)

22 Q Mr. Fehrman, in that segment we just listened to,
23 Mr. Borges said: It would be bad for me, it would be worse
24 for you, and you replied: Right, I get it, I understand
25 that. Will you explain your understanding?

1 **A** Yeah. It was, once again, a reminder that I was a
2 small fish and he was a big one, that he had more influence
3 than I did, and that if these conversations came out
4 publicly, it would be bad for him, but it would be, you
5 know, negative media coverage, but that it would be worse
6 for me because I was a small fish, because I was somebody
7 who had been recently looking for employment opportunities
8 and trying to figure out what my next career move was and
9 that I'd no longer have some of the help I had been given,
10 that it would -- it felt like a threat, that he would make
11 sure, make sure that people knew that I had been a part of
12 that.

13 **Q** Also in that segment, Mr. Borges referenced Larry.
14 Who did you understand Larry to be?

15 **A** Larry Householder.

16 MS. GAFFNEY-PAINTER: Your Honor, I would at this
17 time request permission to publish a third portion of this
18 meeting from 615 D?

19 THE COURT: Yes.

20 MS. GAFFNEY-PAINTER: Thank you. For the record,
21 we will be publishing minute 20 and 9 seconds to minute 21
22 and 3 seconds, and for the jury's guidance, the transcript
23 will start on page 19.

24 (Recording playing.)

25 **Q** Mr. Fehrman, in that segment we just listened to,

1 Mr. Borges says: I'm helping you out with a personal
2 situation you need help with because I'm your friend. Is
3 that what you understood this arrangement to be?

4 **A** No.

5 MS. GAFFNEY-PAINTER: Your Honor, permission to
6 publish a fourth portion of Government Exhibit 615 D?

7 THE COURT: Yes.

8 MS. GAFFNEY-PAINTER: Here we are publishing from
9 minute 22 and 52 seconds to minute 23 and 18 seconds. And
10 for the jury's guidance, the transcript will start on
11 page 22.

12 (Recording playing.)

13 **Q** Mr. Fehrman, immediately after this meeting ended,
14 what did you do?

15 **A** After this meeting ended, I would have driven to meet
16 Special Agent Wetzel.

17 MS. GAFFNEY-PAINTER: Your Honor, may we please
18 have permission to publish what's already been admitted as
19 Government Exhibit 621 T?

20 THE COURT: Yes.

21 MS. GAFFNEY-PAINTER: And may we, on the right side
22 of the screen, please, publish what's already been admitted
23 as Government Exhibit 621 Y?

24 THE COURT: Yes.

25 **Q** Mr. Fehrman, directing your attention to the left side

1 of the screen, please, will you read this exchange for us
2 starting with the blue text, "all right"?

3 **A** Yes. All right. I have Columbus ready but the rest I
4 won't have -- I won't have when we do our weekly every
5 Friday. Can we meet this afternoon? I'll bring this. You
6 bring what we discussed yesterday. I can explain some of
7 the process. I've got hiring interviews and training until
8 about 3:00.

9 I could meet around 6.

10 Works for me. That way I can make sure my crew is all
11 taken care of and meetings, interviews, trainings are out of
12 the way. Same place?

13 Sure.

14 **Q** Now, Mr. Fehrman, please, directing your attention to
15 Government Exhibit 621 Y that appears on the right side of
16 the screen, will you please read this exchange starting with
17 the gray text, "let's move tomorrow"?

18 **A** Yes. Let's move tomorrow, sorry.

19 All right. No worries. Time? My mornings are
20 wrecked until about noon.

21 I think 2ish.

22 Can you do 3:00? I can shuffle my afternoon
23 appointment and be free and clear that way.

24 Yes.

25 **Q** Now, just generally speaking, what's happening in

1 these text message exchanges we see here?

2 **A** This was an attempt to set up my next meeting with
3 Matt.

4 MS. GAFFNEY-PAINTER: Your Honor, may we please
5 have permission to publish what's already been admitted as
6 Government Exhibit 622 D?

7 THE COURT: Yes.

8 **Q** Mr. Fehrman, will you please read for us this exchange
9 starting with the gray text box stuck up here, and if you
10 could attribute the text to either you or Matt as you read
11 them?

12 **A** Yes. The first text is from Matt: Stuck up here at
13 Rex's office. Sorry this is becoming a shit show. We will
14 figure it out. I'll let you know.

15 And then from me: Okay. I rearranged my whole day to
16 slip out and just got here. How long do you think?

17 Then Matt: Stuck here. We also need to take a
18 different approach. Want to hire you to consult on an
19 unrelated project. Will explain.

20 MS. GAFFNEY-PAINTER: Now, Your Honor, may we
21 please have permission to publish what's already been
22 admitted as Government Exhibit 622 G?

23 THE COURT: Yes.

24 **Q** Now, Mr. Fehrman, will you please read for us the
25 exchange starting with the blue next box, "all right"?

1 **A** Yes. All right. Good for me to head back to work or
2 do you still want to try something today?

3 And then from Matt: Sorry. Go ahead and head back
4 and we will get this figured out tomorrow.

5 And then from me: All right. Just let me know so I
6 can plan my day tomorrow. Things are getting sort of crazy.

7 **Q** What's happening in this text exchange that you've
8 read to us?

9 **A** Yeah. We had had a meeting scheduled to sit down, and
10 if I remember correctly, he was going to pay me money we had
11 agreed upon. I arrived at the location for the meeting and
12 he didn't show up, and then he told me he was stuck in Rex's
13 office, and it was me attempting to figure out, are we still
14 going to meet, what are we going to do, you know, when are
15 we -- when are we getting together?

16 **Q** Did you in fact meet with Mr. Borges on another time
17 after this exchange?

18 **A** Yes, I did.

19 MS. GAFFNEY-PAINTER: Your Honor, before we enter
20 into the next recorded meeting, I notice the time, it might
21 be a good point for a break, but I'm also prepared to
22 proceed if you would like.

23 THE COURT: No, I think it's our normal break time.
24 We'll take a break. To the Members of the Jury, I want you
25 to take a break. Don't talk about the case among yourselves

1 yet at all or anybody else. No independent research. No
2 checking out the social media or media. Continue to keep an
3 open mind. We'll break for 20 minutes and out of respect
4 for you, we'll rise as you leave.

5 THE DEPUTY: All rise for the jury.

6 (Jury exited the courtroom at 10:43 a.m.)

7 THE COURT: Okay. The jury is leaving the room.
8 As always, we'll wait in the courtroom until we're advised
9 that they've cleared the floor and then we'll take our
10 20-minute break. Door is closing. During the break, sir,
11 you are ordered not to discuss your testimony, you
12 understand?

13 THE WITNESS: Yes.

14 THE COURT: Thank you.

15 (Pause.)

16 THE DEPUTY: All clear.

17 THE COURT: Break for 20 minutes.

18 THE DEPUTY: This court is in recess for
19 20 minutes.

20 (Recess taken from 10:44 a.m. to 11:04 a.m.)

21 THE DEPUTY: All rise. This court is in session
22 pursuant to the recess.

23 THE COURT: Thank you. Please be seated. Back in
24 the open courtroom ready to call the jury. Is the
25 government ready to proceed?

1 MS. GAFFNEY-PAINTER: Yes, thank you, Your Honor.

2 THE COURT: Mr. Householder?

3 MR. GLICKMAN: Yes, Judge.

4 MR. SCHNEIDER: Yes.

5 THE COURT: Very well. Let's call for the jury.

6 (Pause.)

7 THE DEPUTY: All rise for the jury.

8 (Jury entered the courtroom at 11:09 a.m.)

9 THE COURT: You may all be seated. Thank you. 14
10 Members of the Jury have rejoined us. We will continue to
11 hear the taking of testimony. The witness remains under
12 oath. Ms. Painter, you may proceed.

13 MS. GAFFNEY-PAINTER: Thank you, Your Honor.

14 THE COURT: Very well.

15 **Q** Mr. Fehrman, I want to take a step back to that very
16 first coffee meeting you had with Mr. Borges in August of
17 2019. What information did Mr. Borges say he wanted from
18 you during that meeting?

19 **A** He asked for just sort of a general sense of how many
20 signatures were being gathered, kind of what the lay of the
21 land on the ground was, where canvassers would be, and just
22 a general idea of what we were up to or what kind of
23 progress was being made.

24 **Q** Now, I want to advance to that second recorded meeting
25 you had with Mr. Borges in September of 2019.

1 MS. GAFFNEY-PAINTER: Your Honor, previously we
2 admitted Government Exhibit 616 A, which was the audio from
3 that meeting, and Government Exhibit 616 B, which was the
4 video, and we created a demonstrative which we marked for
5 identification as Government Exhibit 616 D, which combined
6 those two exhibits. May we please have permission to
7 publish that demonstrative, 616 D?

8 THE COURT: Any objections?

9 MR. SCHNEIDER: No objection.

10 MR. GLICKMAN: No, Judge.

11 THE COURT: Very well. Yes, you may publish the
12 demonstrative exhibit.

13 MS. GAFFNEY-PAINTER: Thank you, Your Honor. We
14 will only be publishing select portions of 616 D. And, Your
15 Honor, may the jury have permission to follow along with the
16 transcript that has been marked for identification as
17 Government Exhibit 616 C?

18 THE COURT: Yes. 616 C. Give us just a moment.

19 MS. GAFFNEY-PAINTER: Certainly. And while
20 everyone is getting situated, just for the record, I will
21 note that this first portion we are publishing is from
22 1 minute and 22 seconds to 8 minutes and 9 seconds. And for
23 the sake of the jury, the transcript will start on page 3.

24 THE COURT: Very well. You may proceed.

25 (Video playing.)

1 **Q** Mr. Fehrman, there was a reference in that segment to
2 a Kasich reunion thing for Judy French and needing your help
3 with that. Did that make sense to you at the time?

4 **A** It made no sense whatsoever.

5 **Q** Why is that?

6 **A** Judy French was a Supreme Court justice, John Kasich
7 was the governor or former governor, a John Kasich reunion
8 for Judy French just did not make sense to me at all.

9 **Q** Now, in that segment, you mentioned that, "you kind of
10 creeped me out in a car with the LaRose sticker." Can you
11 explain that to us?

12 **A** Um-hmm. So the earlier conversation we had had where
13 we were supposed to meet the day prior and then Matt did not
14 show up, he told me he was stuck in Rex's office. Shortly
15 afterwards, I received text messages from one of my
16 canvassers who said some big-wig looking guys are showing up
17 and asking us questions and we're a little bit worried about
18 who they are. They were just confused. They said these
19 aren't normal blockers. And I asked them to try and get
20 pictures of the folks that were there. The pictures they
21 sent me were of the Audi that I knew Matt drove that had a
22 Frank LaRose for Secretary of State sticker in the back
23 right window or in the back right rear, rear window. And I
24 just, I thought it was very odd because he had told me he
25 was in Rex's office, which I knew was downtown, and this was

1 out pretty far from downtown at a public library. I thought
2 it was odd that he would personally be out confronting or
3 watching my canvassers.

4 **Q** Now, Mr. Borges made a comment in that segment, "I'm
5 going to blow your house up." How did you take that?

6 **A** That comment, when it was made, shook me. I had felt
7 threatened in our earlier conversations, but that struck a
8 different tone with me. Sometimes, in politics especially,
9 we utilize dark humor, but we hadn't been doing that. He
10 had been asking me to do things that he knew were not
11 acceptable and that I had --

12 MR. GLICKMAN: Objection.

13 THE COURT: Sustained, strike it. Testify as to
14 what you know.

15 THE WITNESS: He had asked me to do things that I
16 had made it clear initially that I thought -- that I felt
17 were wrong, and he kept asking if I was going to report it
18 to someone or if he was going to get a phone call from Randy
19 Ludlow, who was a reporter. It was all very intimidating,
20 and then to be told he would "blow my house up" was --
21 was -- it scared me.

22 MS. GAFFNEY-PAINTER: Your Honor, may we publish a
23 second portion from this same demonstrative exhibit?

24 THE COURT: Yes.

25 MS. GAFFNEY-PAINTER: For the record, this will be

1 from 8 minutes and 9 seconds to 11 minutes and 1 second.

2 And for the help of the jury, the transcript will be
3 continuing on page 9 where we left off.

4 THE COURT: Very well.

5 (Video playing.)

6 Q Mr. Fehrman, in that segment we just listened to,
7 there was reference to Rex. Who is Rex?

8 A Rex Elsass was a political consultant in Columbus.

9 Q There was also reference in that segment we just
10 listened to to that project for Judy French. Did that
11 project ever happen?

12 A No.

13 Q Did you ever do any work --

14 A No.

15 Q -- associated with that?

16 MS. GAFFNEY-PAINTER: Your Honor, may we please
17 have permission to publish what's already been admitted as
18 Government Exhibit 617 A?

19 THE COURT: Yes.

20 MS. GAFFNEY-PAINTER: And may the jury please have
21 permission to follow along with the transcript that's been
22 marked for identification as Government Exhibit 617 B?

23 THE COURT: Yes. Give us just a moment. 617 B as
24 in "boy"?

25 MS. GAFFNEY-PAINTER: 617 B.

1 THE COURT: I'm a little dyslexic. All right. 617
2 B?

3 MS. GAFFNEY-PAINTER: Yes.

4 THE COURT: Very well. You may proceed.

5 MS. GAFFNEY-PAINTER: Thank you.

6 (Recording playing.)

7 **Q** Mr. Fehrman, in that call we just listened to, there
8 was reference to Carlo. Who is Carlo?

9 **A** My understanding was that it was a reference to Carlo
10 LoParo, who was a -- he's a communications professional in
11 Columbus.

12 **Q** Now, that story that you told about the man in the
13 Brooks Brothers dress clothes, was that story true?

14 **A** Yes, it was.

15 **Q** Now, in that segment, you reference a \$15,000 check.
16 What did you do with that check?

17 **A** I took that check, after the meeting with Matt and as
18 was standard practice, met Special Agent Wetzel privately
19 after the meeting to kind of debrief, and then took that
20 check to my bank and deposited it and then immediately wrote
21 a check for the same amount to the United States Marshals.

22 MS. GAFFNEY-PAINTER: Your Honor, may we have
23 permission to publish what's already been admitted as
24 Government Exhibit 624 A?

25 THE COURT: Yes.

1 **Q** Mr. Fehrman, looking at your screen, is this the check
2 that you were just referencing?

3 **A** Yes, it is.

4 MS. GAFFNEY-PAINTER: Your Honor, may we please
5 have permission to publish what's already been admitted as
6 Government Exhibit 618 A?

7 THE COURT: Yes.

8 MS. GAFFNEY-PAINTER: And may the jury have
9 permission to follow along with the transcript, which has
10 been marked for identification as Government Exhibit 618 B?

11 THE COURT: Yes.

12 MS. GAFFNEY-PAINTER: We will only be publishing a
13 segment of this call. For the record, we will be publishing
14 from 1 minute and 28 seconds to the end of the call. And
15 for the help of the jury, the transcript starts on page 3.

16 THE COURT: Very well.

17 (Recording playing.)

18 **Q** Mr. Fehrman, in that segment of the call that we just
19 listened to, Mr. Borges asks you: Do you know a number?
20 What did you understand him to be asking you?

21 **A** He was asking for the number of signatures that we had
22 up to that point.

23 MS. GAFFNEY-PAINTER: Your Honor, may we please
24 have permission to publish what's already been admitted as
25 Government Exhibit 622 Q, Government Exhibit 622 S,

1 Government Exhibit 622 T, Government Exhibit 622 V, all of
2 which have been admitted and all of which constitute
3 screenshots of a continuing text exchange?

4 THE COURT: Yes.

5 MS. GAFFNEY-PAINTER: Ms. Terry, may we please
6 publish on the left side of the screen Government
7 Exhibit 622 Q and on the right side of the screen Government
8 Exhibit 622 S?

9 Q Mr. Fehrman, will you please, starting on the left
10 side read this text exchange for us and indicate when you
11 are writing and when Mr. Borges is writing?

12 A Yes. So on the left side, first one is from me.
13 Says: Call was canceled again due to a shitload of things
14 going on. Let's reconnect later.

15 And then Matt: We were told you guys had 120,000
16 signatures. Any idea if that's right?

17 And then me: Sorry, crazy day. All I've known so far
18 was the regional total I gave you.

19 Q And now if you could proceed to the right side of the
20 screen where Government Exhibit 622 S is displayed and read
21 from the gray text box down to the bottom, please.

22 A Yes. The gray text is from Matt: Any idea how many
23 total signatures you guys have? We were told 80,000 today.
24 Any intel you have would make me a hero. Thanks.

25 And then from me: No clue. Everything is sort of --

1 everything is sort of influx/up in the air. They brought in
2 a bunch of other firms and groups and haven't shared details
3 yet. So numbers are basically impossible to track. We're
4 meeting early next week to go over the new plan and I'll
5 know then. Touch base Monday or Tuesday?

6 **Q** Thank you.

7 MS. GAFFNEY-PAINTER: Now, Ms. Terry, will you
8 please display on the left side of the screen Government
9 Exhibit 622 T and display on the right side of the screen
10 Government Exhibit 622 V?

11 **Q** Now, Mr. Fehrman, looking at the left side of the
12 screen, please, Government Exhibit 622 T, will you please
13 just read for us underneath the blue text, the gray text
14 response there?

15 **A** Yes. Said: That would be great, thanks.

16 **Q** And now looking at the right side of the screen, will
17 you please read the exchange for us starting with the gray
18 text?

19 **A** Um-hmm. Text from Matt reads: Do you think you guys
20 will make it?

21 And then from me: I do, but being able to back it up
22 with evidence is a little impossible on my end. Very
23 separate entities as I'm sure you've seen from filings.

24 **Q** Mr. Fehrman, when Mr. Borges wrote, "do you think you
25 guys will make it," what did you understand him to be

1 referring to?

2 **A** My understanding was that he was referring to whether
3 or not we would collect the number of signatures necessary
4 to place the referendum on the ballot.

5 MS. GAFFNEY-PAINTER: Your Honor, may we please
6 have permission to publish what's already been admitted as
7 Government Exhibit 619 A?

8 THE COURT: Yes.

9 MS. GAFFNEY-PAINTER: And, Your Honor, may the jury
10 have permission to follow along with the transcript that's
11 been marked for identification as Government Exhibit 619 B?

12 THE COURT: Yes.

13 MS. GAFFNEY-PAINTER: Your Honor, we will only be
14 publishing a segment of this call. We will play from the
15 start of the call until 5 minutes and 29 seconds, therefore,
16 to Members of the Jury, the transcript, where it starts,
17 will be the proper point at which to start reading along.
18 (Recording playing.)

19 **Q** Mr. Fehrman, in that segment of the call that we
20 listened to, you told a story about a guy who left abruptly
21 in the middle of the day. Was that story true?

22 **A** Yes, it was.

23 **Q** And when you said "Form 15," what were you referring
24 to?

25 **A** When you are going to be canvassing to collect

1 signatures in the state of Ohio, at least at the time, I'm
2 not sure if it's changed, but there is a requirement that
3 you file a form that registers you as someone gathering
4 signatures. You file it with the Secretary of State's
5 Office, and so our canvassers would file those. We would
6 turn them into the Secretary of State. They were not
7 allowed to go and canvas until we had confirmation that it
8 had been received. But those forms became public record as
9 soon as they were filed by the secretary's office.

10 **Q** During that segment, you said: It's gotten like way
11 further out of control -- weird -- than anything I think
12 I've ever like worked on. Was that true?

13 **A** Yes, it was.

14 MS. GAFFNEY-PAINTER: Your Honor, may I have
15 permission to publish what's already been admitted as
16 Government Exhibit 620 C?

17 THE COURT: Yes.

18 MS. GAFFNEY-PAINTER: And may the jury have
19 permission to follow along with the transcript that's been
20 marked for identification as Government Exhibit 620 D?

21 THE COURT: Yes.

22 (Recording playing.)

23 **Q** Mr. Fehrman, in that call, there was a reference to a
24 press conference. What was that referring to?

25 **A** There was intended to be a press conference or press

1 release related to the signature gathering effort that
2 afternoon. That call was from the very last day of the
3 campaign.

4 **Q** There was also a reference in that phone call to a
5 court hearing. Just generally, what was that referring to?

6 **A** There was a court hearing tentatively scheduled for
7 the following day in Columbus regarding some of the things
8 that had taken place on the campaign to block folks from
9 gathering signatures.

10 **Q** Mr. Fehrman, when you worked with the FBI, did they
11 compensate you in any way?

12 **A** Yes.

13 **Q** How many times?

14 **A** One time.

15 **Q** How much money did the FBI provide to you?

16 **A** \$1,000.

17 **Q** What did you understand that money to be for?

18 **A** My understanding was that it was money essentially
19 to -- because of what I had had to deal with, being
20 followed, recording conversations, all of that, just it was
21 extremely stressful and was, kind of sucked a lot of energy
22 out of me. So my understanding was that it was just to sort
23 of help me through the process.

24 **Q** Did you know that the FBI was going to compensate you
25 before they did so?

1 **A** Absolutely not.

2 **Q** Mr. Fehrman, after this case was charged, did you have
3 any personal interaction with Mr. Borges?

4 **A** No.

5 **Q** Did Mr. Borges communicate about you publicly?

6 **A** Quite a bit.

7 **Q** Can you describe that for us?

8 **A** Yeah.

9 MR. LONG: Objection, Your Honor.

10 THE COURT: Basis?

11 MR. LONG: Relevance and 403.

12 MS. GAFFNEY-PAINTER: Your Honor, may I be heard at
13 sidebar?

14 THE COURT: Yes:

15 **SIDEBAR CONFERENCE.**

16 MR. LONG: Your Honor, we believe the government is
17 attempting to elicit information from this witness about a
18 website linked to our client. We would argue that not only
19 is that information irrelevant, but even if it were
20 relevant, it would be -- any relevance would be
21 substantially outweighed by the danger of unfair prejudice.

22 THE COURT: Okay.

23 MS. GAFFNEY-PAINTER: Your Honor, I have two Sixth
24 Circuit cases that establish that spoliation evidence,
25 including evidence that the defendant attempted to bribe or

1 threaten a witness, is admissible to show consciousness of
2 guilt.

3 It's not just the website; it's the posting of his
4 personnel file which contained his personal information has
5 been the subject of a prior court order. It was dealt with
6 when the Court had to modify his conditions of bond. And
7 this is proper even under Rule 404(b), there's a Sixth
8 Circuit case, *United States v. Buford*, that says such
9 evidence does not raise an improper character inference
10 because threats tend to show consciousness of guilt without
11 any inference as to the character of the spoliator and thus
12 the district court doesn't violate 404(b) by allowing
13 somebody to testify to what someone perceived as being
14 threats against somebody as being witnesses.

15 And as my colleague raises in opening, Mr. Borges'
16 counsel said these weren't serious threats, and so this is
17 relevant in part to the argument that they have raised.

18 THE COURT: All right. Last word and then I'm
19 going to confer with my law clerk.

20 MR. GLICKMAN: On behalf of Mr. Householder, may I
21 be heard?

22 THE COURT: Yes.

23 MR. GLICKMAN: We join in the objection. And,
24 further, if the Court is going to admit some of this
25 evidence, we ask for a limiting instruction that it has

1 nothing to do with Mr. Householder, he had nothing to do
2 with the website. I remind the Court that we would ask to
3 separate the two cases with limiting instruction that this
4 should not be construed in any way regarding
5 Mr. Householder.

6 THE COURT: On that issue?

7 MS. GAFFNEY-PAINTER: The government would have no
8 objection to a limiting instruction and in no way intends to
9 argue that Mr. Householder had anything to do with the
10 website or the posting of this personal information.

11 THE COURT: Last word.

12 MR. LONG: Thank you, Your Honor. Your Honor, I
13 didn't -- what I referenced in opening was specific to what
14 was on the recordings, so I didn't open the door in any
15 fashion to what the government is alleging here. And
16 moreover, I don't believe there's anything overtly
17 threatening about what was posted, but again, preserving my
18 objection.

19 THE COURT: Very well. Let me confer with my law
20 clerk outside your presence, please.

21 (Pause.)

22 THE COURT: May I see counsel, please? I have no
23 idea what's on the websites. I'd like to read the two Sixth
24 Circuit cases and I'd like to know by a proffer what the
25 government intends to establish from the website. I'll read

1 the case law and see what they say about the specificity of
2 threats. It's 12:15, I'd be inclined to take a lunch break.
3 What do you make of that?

4 MR. LONG: Your Honor, I think that's a great plan.

5 THE COURT: Is the government able to be
6 responsive?

7 MS. GAFFNEY-PAINTER: No objection to the lunch
8 break, and, yes, able to be responsive.

9 THE COURT: So I want you to e-mail the cases to my
10 law clerk and a copy to adverse counsel, and proffer what
11 you're going to pull off the website that you believe is a
12 threat. I'll then evaluate the facts and the law and rule.
13 So it's time for lunch. Let's break.

14 **SIDEBAR CONCLUDED.**

15 THE COURT: Members of the Jury, guess what? It's
16 lunch time. Break until shortly after 1:30. During the
17 break, take a break and have a decent lunch. Don't discuss
18 the case among yourselves or with anyone else. No
19 independent research. No checking out the media. Continue
20 to keep an open mind until you've heard all of the evidence.
21 We'll stand in recess for lunch, and out of respect for you,
22 we'll rise as you leave.

23 THE DEPUTY: All rise for the jury.

24 (Jury exited the courtroom at 12:19 p.m.)

25 THE COURT: Jury has left the courtroom for the

1 lunch break. As always, we'll wait in the courtroom until
2 we're advised that they have cleared the floor. Then we'll
3 break until 1:35. The witness is advised again that you're
4 not to discuss your testimony during the break and you
5 understand?

6 THE WITNESS: Yes.

7 THE COURT: Thank you. All right. As soon as we
8 get the word, we will break for lunch.

9 MR. SCHNEIDER: What time did you say, Judge?

10 THE COURT: 1:35.

11 MR. SCHNEIDER: Okay. Thank you.

12 THE DEPUTY: All clear, Judge.

13 THE COURT: All clear. We're in recess.

14 THE DEPUTY: All rise. This court is in recess.

15 (Recess taken from 12:20 p.m. to 1:36 p.m.)

16 THE DEPUTY: All rise. This court is in session
17 pursuant to the recess.

18 THE COURT: Thank you. Please be seated. I need
19 to talk to the lawyers. I would ask that the witness step
20 down off of the witness stand, head back to the witness
21 room, and we'll call you momentarily. Thank you for your
22 understanding.

23 (Witness left the room.)

24 THE COURT: What's up? Put the gentleman in my
25 chambers, Ms. Frankian.

1 Close the door, please.

2 Okay. Over the lunch break, I've reviewed the case law
3 that was presented and considered the circumstances of
4 Defendant Borges' post-indictment conduct with regard to
5 this witness. Case law states in sum that evidence of a
6 threat speaks to consciousness of guilt and that the trial
7 court is in the best position to determine whether something
8 is a threat. Moreover, the Court can allow the evidence to
9 come in even if it's uncertain as to whether the threat
10 actually occurred.

11 Here, Mr. Borges received an employment file from the
12 Franklin County Auditor, that file was not redacted in the
13 first instance. That was Franklin County's error.
14 Mr. Borges claimed he didn't realize the documents contained
15 personal information when he posted them. He took them down
16 immediately. Subsequently, he even agreed to modification
17 of his bond. That said, this Court issued an order
18 modifying defendant's bond and expressed skepticism that the
19 disclosure was inadvertent. Frankly, I think Mr. Borges
20 knew what he was doing, but the issue is, I'm not convinced
21 that it was intended to be a threat so much so as it was
22 just Mr. Borges lashing out. I would note that the website
23 on which Mr. Borges posted this information also contains
24 elaborate statements saying that Mr. Fehrman and the
25 prosecutors are liars, that seems to be more like an act of

1 anger than an actual threat. It's a close call. I could
2 let the evidence in. Frankly, if I did that, I'd also have
3 to let in Mr. Borges' entire explanation, that it was
4 Franklin County's fault, and he claims he didn't see the
5 personal information, that he rectified the situation and
6 agreed never to post again. In that regard, and the rest of
7 the website contains numerous references to Mr. Fehrman
8 being a liar, according to Mr. Borges.

9 So on balance, I do not believe that the probative
10 value outweighs the risk of unfair prejudice and confusing
11 the jury, and I sustain the objection lodged against the
12 government. The Court has ruled. The government
13 understands?

14 MS. GAFFNEY-PAINTER: Yes, Your Honor.

15 THE COURT: Defense as well?

16 MR. LONG: Yes, Your Honor.

17 MR. GLICKMAN: Of course, Judge.

18 THE COURT: Very well. Are we ready for the jury
19 from the government's sense?

20 MS. GAFFNEY-PAINTER: Yes, Your Honor.

21 THE COURT: From Mr. Borges' sense?

22 MR. SCHNEIDER: Yes, Your Honor.

23 THE COURT: Mr. Householder's?

24 MR. GLICKMAN: Yes.

25 THE COURT: You can bring in the witness too.

1 (Pause.)

2 (Witness took the stand.)

3 THE DEPUTY: All rise for the jury.

4 (Jury entered the courtroom.)

5 THE COURT: You may all be seated. Thank you.

6 That's a drum roll. The jury is back. Thank you for your
7 close attention. We will continue to hear testimony.

8 Witness is on the stand and still under oath. Does the
9 government wish to inquire?

10 MS. GAFFNEY-PAINTER: Yes, thank you, Your Honor.

11 May I approach the podium?

12 THE COURT: Yes, thank you.

13 MS. GAFFNEY-PAINTER: Good afternoon, Mr. Fehrman.

14 THE WITNESS: Afternoon.

15 **Q** Before lunch, we were talking about the
16 signature-gathering that you were overseeing on behalf of
17 Advanced Micro Targeting during that referendum period and
18 there was some discussion of blockers or being followed.
19 Can you describe for the jury how those efforts affected
20 your work day to day?

21 **A** Yes. It made everything exponentially more difficult
22 in gathering signatures from my end as the manager, it meant
23 trying to keep a close watch on a very large team of folks
24 that I had in the field, to make sure they were all right,
25 to make sure they were safe. There were several instances

1 where there were physical altercations between --

2 MR. GLICKMAN: Objection, Judge, to the extent this
3 is hearsay.

4 THE COURT: Rephrase.

5 **Q** Mr. Fehrman, if you can speak to us about what you
6 personally observed or personally witnessed and not
7 necessarily what others told you happened.

8 **A** Yes. I had to speak with the Columbus Police
9 Department on one occasion because one of my
10 signature-gatherers was physically assaulted by another
11 individual who was a blocker. Having to try and maintain
12 morale with a team that is, you know, working 15-plus hours
13 a day, seven days a week and were being regularly followed,
14 harassed, yelled at, their work was being impeded, which
15 affected in turn their numbers that they were bringing back
16 at the end of the day. When you're working on initiative
17 that is almost solely based on success found in numbers, it
18 made everything much, much more difficult. I have worked on
19 quite a few campaigns, whether it's candidates or ballot
20 issues, and had never experienced anything like this. It
21 was a different type of opposition.

22 At one point, we had folks circulating a fake petition
23 trying to confuse the folks that we were approaching for
24 signatures. On one occasion, one of our employees actually
25 was my mother, I hired her to come and gather signatures for

1 us, and received a phone call from her that she was at a
2 public library in Columbus.

3 THE COURT: Interrupt and make sure we don't hear
4 hearsay.

5 THE WITNESS: Was on a -- called me to ask if I
6 would come to where she is located because she was being
7 yelled at. I arrived.

8 MR. GLICKMAN: Objection, Judge.

9 THE COURT: Sustained. Ask your question of the
10 witness that does not call for hearsay.

11 **Q** Can you tell us, Mr. Fehrman, what happened after you
12 arrived, what you saw?

13 **A** Yes. When I arrived, she had three people surrounding
14 her outside of the public library trying to talk over her
15 and tell people not to sign her petition. I instructed her
16 to go inside the library and use the restroom or go away for
17 a minute. Those individuals began to leave. They got into
18 their vehicle, but they sat and waited until she came
19 outside and got into her vehicle to leave. My assumption
20 was that their intention was to follow her --

21 MR. GLICKMAN: Objection, Judge.

22 THE COURT: Strike the assumption.

23 THE WITNESS: I positioned my vehicle in front of
24 their parking space so that they could not follow her.
25 There was another instance at the Dublin public library

1 where I received a phone call from staff asking me to come
2 because they were being yelled at. I arrived to find one
3 signature-gatherer surrounded by three blockers. Those
4 individuals were yelling, following my staff member around
5 to the public pavilion outside of the library. They didn't
6 know who I was. I approached and asked what they were
7 doing, and they began trying to tell me that this other
8 individual, my team member, was passing a fake petition and
9 all kinds of different things. They realized who I was and
10 began taking pictures of me and then left.

11 Those were just two instances that I encountered.
12 There were many more where I was called to please come to a
13 site because my team members were being openly harassed and
14 their work was being impeded.

15 **Q** Mr. Fehrman, you testified earlier that you considered
16 Mr. Borges to be a mentor and a friend. These interactions
17 that you had with Mr. Borges that we talked about, what
18 effect did those interactions have on you?

19 **A** After our initial conversation, I knew that we weren't
20 friends. I made that determination on my own because I felt
21 as though someone I had trusted with information -- personal
22 information about myself and my professional and personal
23 struggles was using that information against me to try and
24 get something from me. The further we got into these
25 conversations and meetings, the more that was cemented in my

1 mind that we were not friends and that I was -- he was
2 attempting to take advantage of me.

3 MS. GAFFNEY-PAINTER: Your Honor, may I have a
4 moment to confer?

5 THE COURT: Yes.

6 MS. GAFFNEY-PAINTER: No further questions. Thank
7 you.

8 THE COURT: Very well. On behalf of
9 Mr. Householder?

10 MR. GLICKMAN: No questions, Judge.

11 THE COURT: Very well. On behalf of Mr. Borges?

12 MR. LONG: Yes, Your Honor. May I approach?

13 THE COURT: Yes.

14 MR. LONG: Thank you.

15 Good afternoon.

16 THE WITNESS: Good afternoon.

17 **CROSS-EXAMINATION**

18 **BY MR. LONG:**

19 **Q** Ms. Painter just asked you about the impact this whole
20 situation had on your view of Matt Borges, right?

21 **A** Correct.

22 **Q** And you said you felt like he was trying to take
23 advantage of you, what he knew about your personal
24 situation, right?

25 **A** Yes.

1 **Q** I think you also testified that you felt he was using
2 knowledge of your personal circumstances as leverage against
3 you, fair to say?

4 **A** Yes.

5 **Q** And you felt that way before you went to the FBI,
6 right?

7 **A** Yes.

8 **Q** After that first meeting with Matt in early September
9 of 2019, you know, at that point, though, he was -- you
10 still considered him to be a friend and a mentor, right?

11 **A** No.

12 **Q** Okay. Now, who was the friend that you mentioned on
13 direct that you met with before going to the FBI?

14 **A** I didn't meet with anyone before going to the FBI, but
15 I made a phone call to a good friend.

16 **Q** Who was the friend?

17 **A** Mike Adery.

18 **Q** And so the FBI, Agent Wetzel, asked you if you would
19 be willing to reach back out to Matt, right?

20 **A** Yes.

21 **Q** Okay. Now, Agent Wetzel also set you up with the
22 ability to record your telephone calls with Matt, correct?

23 **A** Yes, he did.

24 **Q** And you had two calls on September 5th with Matt; do
25 you remember those?

1 **A** Vaguely.

2 **Q** Vaguely?

3 **A** (Nodding head.)

4 **Q** Do you recall?

5 MR. LONG: Your Honor, could we publish to the
6 witness Government Exhibit 614 B? It's a transcript of the
7 first call on September 5th, 2019.

8 THE COURT: Yes. Excuse me, Ms. Chin, will you
9 approach the law clerk, please. Go ahead, Counsel.

10 MR. LONG: Now, if we can go to page 2, please.

11 **Q** If you can just read to yourself that -- that page, to
12 get re-familiarized with that conversation.

13 **A** (Witness complies.) Um-hmm.

14 **Q** Do you recall that conversation?

15 **A** Yes, I do.

16 **Q** Okay. You'd agree with me that it was you who brought
17 up having legal stuff involving your daughter that you
18 needed to take care of, right?

19 **A** In this instance, yes, however, we had talked about it
20 at length in the past. It was information he was well aware
21 of prior to this conversation.

22 **Q** Well, during this conversation, Matt actually -- you
23 brought up having legal stuff you needed to take care of,
24 having financial needs, and Matt then asked you, well, can
25 you explain more of that, right; do you remember that?

1 **A** I think he asked for more detail, however, again, it
2 was information that we had discussed at length in the past
3 on multiple occasions.

4 MR. LONG: Go to page 4, please.

5 **Q** You see in the middle of the page it says: Borges,
6 what happened with your lawyer, what's going on; do you see
7 that?

8 **A** I do.

9 **Q** And so at that point, you see toward the bottom where
10 you say: You know, I got screwed big time. You see that?

11 **A** Um-hmm.

12 **Q** And then over the next, the rest of that page, the
13 whole next page, and onto the top of page 6, you launch into
14 a lot of detail about what's going on with your legal
15 situation and your financial needs, correct?

16 **A** Um-hmm, yes.

17 **Q** Now, when you had met with Agent Wetzel prior to that
18 meeting, had you discussed sharing those kinds of details in
19 your conversations with Agent Wetzel, was that part of the
20 strategy with Matt?

21 **A** I'm sorry, can you clarify?

22 **Q** Yeah. It may have been a bad question. I'll ask it
23 another way.

24 Whose idea was it for you to provide such great detail
25 about all of your life challenges to Matt when you called

1 him?

2 **A** I don't know that it was anyone's idea. It was my
3 personal choice to discuss things that Matt and I had
4 discussed in the past in detail.

5 **Q** And you felt that that would make you more sympathetic
6 to Matt, right, by sharing all of those details?

7 **A** I felt that it -- we had discussed, again, in the past
8 my general circumstance related to child support arrears
9 related to a messy divorce. I had never probably given him
10 detail on the wealthy family that funded my ex-wife's
11 divorce and all of that, and now that we were having deeper
12 conversations about this, it was information that I shared
13 in greater detail.

14 **Q** You describe yourself as being close friends with Matt
15 at least prior to this, right?

16 **A** Yes.

17 **Q** So, you know, you knew Matt was married and had
18 children, right?

19 **A** Um-hmm, yes.

20 **Q** You knew he had a daughter?

21 **A** Yes.

22 **Q** You knew that his wife had gone through her own messy
23 divorce kind of like yours, right?

24 THE COURT: Is there an objection?

25 MS. GAFFNEY-PAINTER: Yes, Your Honor. Objection,

1 relevance.

2 THE COURT: Is this relevant?

3 MR. LONG: Your Honor, it goes to kind of motive.

4 THE COURT: I'll give you a little latitude, but
5 I'm not overwhelmed by the relevance. The objection is
6 overruled at the time. What was the question?

7 MR. LONG: I'll move on.

8 THE COURT: Very well.

9 MR. LONG: So you can take that down, please.

10 Thank you.

11 **Q** Ms. Painter asked you and showed you a copy of your
12 employment contract with AMT, right?

13 **A** Yes.

14 **Q** And played a call earlier on direct from September 5th
15 where Matt wanted to know if you had an employment contract,
16 right?

17 **A** Yes.

18 **Q** And you told him you did?

19 **A** I did.

20 **Q** And he wanted to know, do you have a nondisclosure
21 agreement, right?

22 **A** Yes.

23 **Q** And you told him you didn't sign anything specific
24 like that; do you recall that?

25 **A** I said that I wasn't aware whether or not I had an

1 NDA. I believe that was in the call.

2 **Q** But your employment contract did have a nondisclosure
3 agreement, right?

4 **A** It ended up that it did, yes. Because I am not an
5 attorney, I probably did not read through that with a
6 fine-tooth comb the way that an attorney would.

7 MR. LONG: Could we bring up Government Exhibit 624
8 B, Your Honor? It has already been admitted.

9 THE COURT: Yes.

10 MR. LONG: Ask that it be published.

11 THE COURT: Yes, publish it.

12 MR. LONG: Go to page 4, please.

13 **Q** Do you see in bold Section 9, confidential
14 information?

15 **A** I do.

16 **Q** As a lay person looking at what's in bold there, does
17 it seem to be a nondisclosure agreement, what's to be kept
18 confidential?

19 **A** It would appear so, yes.

20 **Q** You see about the middle of the page: The
21 confidential information will not include information that,
22 and then there's a list; do you see that?

23 **A** I do see that.

24 **Q** Can you read B?

25 **A** B: Is now or subsequently becomes generally available

1 to the public through no wrongful act of the employee.

2 **Q** But you hadn't read that prior to having this
3 conversation with Matt?

4 **A** If there was -- one of the many things I learned from
5 this situation was that I should probably look at employment
6 contracts a little closer.

7 **Q** So you hadn't read that before you had the
8 conversation with Matt?

9 **A** No. I was excited to accept a job and sign a
10 contract.

11 **Q** Well, Matt then followed up on that call, same day,
12 again asking for a copy of your employment contract; do you
13 remember?

14 **A** Yes.

15 **Q** And he texted: Make sure you didn't sign an NDA; do
16 you recall that?

17 **A** I do recall that.

18 **Q** Do you recall again texting Matt this time and telling
19 him: I don't recall signing an NDA, checking on that too?

20 **A** Yes.

21 **Q** Did you check on it at that point?

22 **A** I believe so.

23 **Q** So at that point, you had read Section 9, confidential
24 information?

25 **A** No. I -- being almost four years ago, I cannot recall

1 whether or not I sat down and read my employment contract in
2 great detail. He asked for a copy. I told him I would send
3 him a copy.

4 **Q** Well, he also asked: Make sure you didn't sign an
5 NDA.

6 THE COURT: What's the question?

7 **Q** Correct?

8 **A** Yes.

9 **Q** You texted him again: Just e-mailed you my contract.
10 Went through it, didn't see -- don't see an NDA. Do you
11 recall that text?

12 **A** I recall.

13 **Q** That wasn't true, was it?

14 **A** Again, at this point, I do not recall whether or not I
15 had gone through that employment contract at length.

16 **Q** Well, this was a topic that was brought up several
17 times during these conversations with Matt, right, your NDA?

18 **A** Yes.

19 **Q** And Matt had told you he did not want you to violate
20 your NDA, right?

21 **A** He stated that during one of our conversations, yes.

22 **Q** Actually stated on that second call on September 5th:
23 If you can be bought out and you can and you have a
24 nondisclosure that you would not violate; do you recall
25 that?

1 **A** I do.

2 **Q** He also told you he did not want you to violate your
3 noncompete, correct?

4 **A** I believe so.

5 **Q** Were you aware that your employment contract had a
6 noncompete?

7 **A** At the time, probably not.

8 **Q** And during one of the meetings, Matt told you,
9 essentially, the best thing would probably be if you just go
10 ahead and take that OEC job, right?

11 **A** Yes, he did state that.

12 **Q** All right. And part of the reason was, he said:
13 Because taking another opportunity would be better than
14 going to work for a competitor, right?

15 **A** I believe so. I believe that was also right around
16 the time he told me that the noncompete and NDA would be
17 completely unenforceable and that no judge would hold the
18 company to it.

19 **Q** Well, he said the noncompete was unenforceable, right?

20 **A** I believe so.

21 **Q** Okay. He didn't reference in that part of the
22 conversation the nondisclosure agreement, he was talking
23 about the noncompete, right, that that was unenforceable?

24 **A** I believe so, yes.

25 **Q** Okay. When he said, you know, not going to work for a

1 competitor, was it your understanding that working for a
2 competitor meant, you know, buying out your contract and you
3 coming to work for him?

4 **A** I -- at this point, I'm not sure what I understood
5 that to mean.

6 **Q** Well, you talked about various options, right, with
7 Matt?

8 **A** Yes.

9 **Q** Okay. One of which would be you'd go work for OEC,
10 leave your job, he'd hire you as a consultant, get some
11 information out of you, that was one option, right?

12 **A** I believe so.

13 **Q** Okay. Another option was buy out your contract, you
14 come work for him and deal with the consequences of
15 potentially violating your noncompete agreement, right?

16 **A** I believe so. I don't know that we got that specific.
17 I haven't necessarily memorized the recordings, but if
18 that's what's in the recordings, then, that would be
19 accurate.

20 **Q** Well, we listened to the recording from the
21 September 10th meeting where that was discussed?

22 **A** Um-hmm.

23 **Q** We listened to that recording today, didn't we?

24 **A** We did.

25 **Q** Okay. You recall after that September 10th meeting,

1 you had a meeting set up where you were planning to meet
2 with Matt and it got canceled, right?

3 **A** Yes.

4 **Q** Okay. And then on September 12th, Matt texted you:
5 We also need to take a different approach, want to hire you
6 to consult on an unrelated project; do you remember that?

7 **A** I do.

8 **Q** And then he texted you again on the following day:
9 Let's do a three-month agreement to work on political
10 projects; do you recall that text?

11 **A** I do.

12 **Q** Now, during the subsequent meeting on the 13th of
13 September, Matt talked to you about putting together a
14 Kasich reunion for Judy French; do you remember that?

15 **A** Yes.

16 **Q** And you testified on direct that that didn't make any
17 sense to you, right?

18 **A** Yes.

19 **Q** Well, but you were aware being in Ohio politics since
20 2008 and even being involved in John Kasich's campaigns,
21 that Governor Kasich had actually appointed Judy French to
22 the Ohio Supreme Court in 2013, right?

23 **A** Yes.

24 **Q** Okay. And so you were aware that now, you know,
25 Former Governor Kasich, in 2019, former governor, right,

1 Kasich was not the governor in 2019?

2 **A** Correct.

3 **Q** But he had a political relationship with Judy French,
4 right?

5 **A** I am aware that they knew each other. I am not aware
6 of the details of their relationship.

7 **Q** You knew he had appointed her to the Supreme Court,
8 that's a pretty big deal, isn't it?

9 **A** Yes.

10 **Q** Okay. But it would make no sense that political
11 allies would get together for a fundraiser?

12 **A** I watched Matt Borges and Larry Householder get
13 together for fundraisers knowing they greatly disliked each
14 other. So no, that does not necessarily mean that they were
15 political allies or had a good relationship.

16 **Q** But that didn't make any sense to you, right?

17 **A** It did not, that a governor would want a staff reunion
18 with a Supreme Court justice and/or her staff, that did not
19 make sense to me.

20 **Q** You recall giving an interview to Jeremy Pelzer at
21 cleveland.com in 2020?

22 **A** I do.

23 **Q** And Mr. Pelzer actually published an article based on
24 that conversation with you, right?

25 **A** He did.

1 **Q** That was: Meet the man who helped the FBI expose Ohio
2 House Speaker Larry Householder and so forth, right?

3 **A** I believe so.

4 **Q** Had your picture published in the article?

5 **A** Yes.

6 **Q** Do you recall telling Mr. Pelzer, quote, I was hoping
7 my phone would ring and he'd go, quote, hey, now we can
8 start on the staff reunion, Fehrman said. Do you recall
9 telling him that?

10 **A** I do.

11 **Q** Fair to say that when you talked to Jeremy Pelzer with
12 cleveland.com, you were conveying that you thought that
13 there really was going to be a staff reunion project that
14 you were going to work on, right?

15 **A** Absolutely not.

16 **Q** So he got it wrong?

17 **A** No. I was trying to convey to Jeremy that every day
18 on that campaign, I hoped I would get a phone call that
19 there was some form of legitimate work and I was not just
20 being asked to sell my team down the river for information
21 to sink a campaign.

22 **Q** You specifically said: "Hoping he would say now we
23 can start on the staff reunion"?

24 **A** Because that is how Matt had framed the other work
25 that he claimed would take place.

1 **Q** Remember on the -- during the meeting on September
2 13th, one of the things Matt said was: I don't want you to
3 do that other shit, I just don't care about it, right?

4 **A** Yes, I do.

5 **Q** And then you volunteered: You know, I can still pull
6 the statewide for you, if you're interested; do you recall
7 that?

8 **A** I do.

9 **Q** You volunteered that to him, didn't you?

10 **A** At that meeting, yes. He did however reach out
11 multiple times afterwards requesting specific information
12 about inside details of the campaign.

13 **Q** Well, let's talk about those multiple times. So after
14 September 13th, you characterize multiple times, right?

15 **A** Yes.

16 **Q** And we listened to a call from September 19th, 2019,
17 it was Government Exhibit 618 B, where Matt asked you: Do
18 you know a number? Do you recall that?

19 **A** Yes.

20 **Q** So we'll count, that's one, right?

21 **A** Yes.

22 **Q** Then, on September 20th, he texted you: We were told
23 you guys had 120,000 signatures, any idea if that's right?
24 Do you recall that?

25 **A** Yes, I do.

1 **Q** So that's two, right?

2 **A** Yes.

3 **Q** And then on September 27th, 2019, he texted you: Any
4 idea how many total signatures you guys have? We were told
5 80,000 today; do you recall that one?

6 **A** Yes.

7 **Q** And then on October 2nd, he just asked: Do you think
8 you're going to make it, right?

9 **A** Yes.

10 **Q** Okay. And then in a call or two in October, he asked
11 again: Do you think you're going to make it, right?

12 **A** I believe so.

13 **Q** Okay. But there's three times when he actually asks
14 if you can either provide a number or confirm something that
15 he heard, right?

16 **A** You just listed three specific instances, yes.

17 **Q** Well, during your direct examination, did Ms. Painter
18 bring up any that I missed?

19 **A** I don't believe so.

20 **Q** Okay. Now, each time, each of those three times after
21 September 13th, you evaded answering, giving him a specific
22 answer, right?

23 **A** Yes.

24 **Q** You kind of came up with excuses about meetings
25 rearranged and stuff like that, right?

1 **A** Yes.

2 **Q** And, you know, Matt's reaction was typically "okay,"
3 right?

4 **A** I don't know what his -- I don't know what he was
5 thinking regarding my answers, but at face value, yes.

6 MR. LONG: Well, can we bring up Government
7 Exhibit 622 Q, Your Honor? It's already been admitted and
8 we would ask that it be published?

9 THE COURT: Yes.

10 **Q** Do you see this is the text where Matt asked -- told
11 you guys had 120,000 signatures, any idea if that's right?

12 **A** Yes.

13 **Q** Do you see that?

14 **A** I do.

15 **Q** And then below that is kind of the, you know, excuse:
16 Crazy day, don't know any more information, that's
17 essentially what you conveyed?

18 **A** Yes.

19 **Q** He never followed up on that and said, you know, now
20 have you figured it out, right?

21 **A** I don't recall. I'd need to see more of the specific
22 conversation.

23 MR. LONG: Can we go, Your Honor -- the exhibit
24 sequentially has already been admitted, so if we could go to
25 the next exhibit following 622 Q?

1 THE COURT: Yes.

2 MR. LONG: So the next one after that, please.

3 Q So you see on the screen there is your: "Sorry, crazy
4 day, all I've known so far was the regional total I gave
5 you"?

6 A Yes.

7 Q And that had been the answer you gave in the prior
8 text, right?

9 A Yes.

10 Q So this is a continuation of that threat, correct?

11 A I believe so, yes.

12 Q Okay. And so this time he asks about the -- can you
13 confirm 80,000, right?

14 A Yes.

15 Q And you never confirmed that, did you?

16 A I'm not sure what message came after this message.

17 MR. LONG: Your Honor, these have consequentially
18 been admitted. We would ask that the next consequentially
19 admitted Government Exhibit be published?

20 THE COURT: Yes.

21 MR. LONG: If you can bring up the next.

22 Q You see your response to his question about the
23 80,000?

24 A I do.

25 MR. LONG: If we can go to the next, please.

1 **Q** That would be great, thanks, and then you sent him an
2 emoji?

3 **A** Um-hmm, yes.

4 **Q** After that September 13th meeting --

5 MR. LONG: And you can take that down.

6 **Q** After that September 13th meeting, that check, that
7 \$15,000 check was only brought up one time, right?

8 **A** I don't recall --

9 **Q** Well, you recall --

10 **A** -- whether other instances it was brought up.

11 **Q** You recall listening to a call earlier today where you
12 brought up: Hey, by the way, do you know what happens when
13 you deposit a \$15,000 check into your account?

14 **A** Oh, yes.

15 **Q** Okay. Do you agree with me that that check never came
16 up again after that, did it?

17 **A** I am unsure whether or not it came up again. I
18 genuinely do not at this point recall if we discussed it
19 again after that.

20 **Q** Well, in none of the recordings or text messages that
21 Ms. Painter went over with you today did that check ever
22 come up again, did it?

23 **A** Again, I do not recall. I have heard the recordings.
24 I have not memorized them.

25 **Q** Listening to the things you listened to today, it only

1 came up the one time when you brought it up, right?

2 **A** From what I heard today.

3 **Q** Yes.

4 **A** I heard it mentioned one time today.

5 **Q** And you also said on direct that Matt had helped you
6 in the past, right? You guys did have a history of him
7 helping you?

8 **A** Of working together, yes.

9 **Q** And that included, I think you testified in December
10 of '18, January of '19, he paid you to work on some
11 projects, right?

12 **A** Yes.

13 **Q** And you recall that he paid you in December like
14 \$2,000 by check, right?

15 **A** I can't recall at this point how much it was. That
16 sounds accurate.

17 **Q** Okay. And in January of '19, he paid you 1750 to work
18 on another project, right?

19 **A** I, again, cannot recall the exact amount, but that
20 doesn't sound out of the range of what it would have been.

21 **Q** And he had actually helped lobby the Kasich
22 administration for you to get that job at DPS, right?

23 **A** No.

24 **Q** No?

25 **A** The Kasich administration was long gone at that point.

1 **Q** Would the Kasich administration be in the final days
2 in January of 2019?

3 **A** Yes, actually, I began the job at the end of
4 December -- no, I began the job in January of 2019.

5 **Q** Okay. But you were hired by the Kasich
6 administration?

7 **A** No. I believe I was hired by the DeWine
8 administration.

9 **Q** And you said you left that job at DPS in June of '19?

10 **A** Yes.

11 **Q** You didn't leave that job; you were forced to resign,
12 right?

13 **A** I signed a resignation letter vacating my position.

14 **Q** Now, on direct you mentioned Doug Price; do you recall
15 that?

16 **A** Yes.

17 **Q** And who was Doug Price?

18 **A** Doug Price is the now former chairman of the Franklin
19 County Republican Party.

20 **Q** Was he somebody that you also looked to as a mentor?

21 **A** Yes.

22 **Q** And you went to Doug in the spring of 2020 and asked
23 him to help you get a job at Roetzel, didn't you?

24 **A** I don't recall.

25 **Q** You recall trying to get a job with Roetzel & Andress?

1 **A** I'm sorry, will you repeat when I supposedly went to
2 Doug?

3 **Q** In early 2020.

4 **A** In early 2020, I was working for Clean Fuels Ohio, had
5 just begun, so that does not seem accurate to me.

6 **Q** So did you -- were you trying to get a job at Roetzel
7 at some other date?

8 **A** I believe I applied for a position at Roetzel at some
9 point, but I don't recall when that would have been.

10 **Q** Well, would it have been after 2019?

11 **A** Oh, it definitely would have been after, after October
12 of 2019.

13 **Q** Okay. And that was the law firm that we heard that
14 Matt Borges worked at in 2019, right?

15 **A** Yes.

16 **Q** And you applied for a job there as well, correct?

17 **A** I believe so.

18 **Q** Now, you're aware that he, beginning in 2020, Matt had
19 opened his own consulting firm, right?

20 **A** Yes.

21 **Q** And that was 17 Consulting, was the name of that; do
22 you recall?

23 **A** I don't recall the name.

24 **Q** But you recall that he did open his own consulting
25 firm?

1 **A** Yes, I do.

2 **Q** Okay. And were you aware of who his partners were?

3 **A** I vaguely remember. I know one specifically, Matt,
4 yes.

5 **Q** Now, Doug Price, one of your mentors, somebody that
6 you went to for help, you also provided information on him
7 to the FBI, didn't you?

8 MS. GAFFNEY-PAINTER: Objection, Your Honor.

9 THE COURT: What's the relevance? Relevance?

10 MS. GAFFNEY-PAINTER: Yes.

11 MR. LONG: It's impeachment, Your Honor.

12 THE COURT: What?

13 MR. LONG: It's impeachment evidence, Your Honor.

14 THE COURT: I'll give you a little latitude.

15 Overruled.

16 MR. LONG: Thank you, Judge.

17 **Q** You reported information on Doug Price to Agent Wetzel
18 on September 25th, 2019, right?

19 **A** I recall discussing or Doug's name coming up as one of
20 the individuals who paid me when I worked in the primary
21 campaigns in 2018 and probably that I had had a conversation
22 with Doug prior to taking the House Bill 6 repeal position.

23 **Q** And you provided info on Doug Price, your friend,
24 again on October 1st, 2019, right?

25 **A** I don't recall discussing Doug Price.

1 **Q** You don't recall again providing information on your
2 friend and mentor, Doug Price, on March 9th, 2020?

3 **A** I do not recall the times I discussed Doug Price with
4 the FBI.

5 **Q** But he was somebody you brought up frequently, right?

6 **A** It was a name that came up related to past work.

7 **Q** When exactly did your official role as a confidential
8 human source with the FBI terminate?

9 **A** I don't know when the formal termination date was.

10 **Q** Well, would it have been around October of 2019?

11 **A** It was probably after that.

12 **Q** You texted with Agent Wetzel pretty frequently, right?

13 **A** Yes.

14 **Q** Even texted him that confidential human sources get
15 paid a lot more in Michigan than they do in Ohio; do you
16 remember that?

17 **A** I believe so.

18 MR. LONG: Okay. Your Honor, I have no further
19 questions.

20 THE COURT: Very well. Redirect, if any, from the
21 government?

22 MS. GAFFNEY-PAINTER: Just briefly, Your Honor.

23 THE COURT: Very well.

24 MS. GAFFNEY-PAINTER: May I approach?

25 THE COURT: Yes.

REDIRECT EXAMINATION**BY MS. GAFFNEY-PAINTER:**

Q Mr. Fehrman, on cross-examination, you were asked about a September 12th text from Mr. Borges about hiring you to consult on an unrelated project; do you recall those questions?

A Yes.

Q Did you ever do any work on any project for Mr. Borges during this time?

A No.

Q You were asked a series of questions about a statement you made hoping that you would receive a call to work on a staff reunion; do you recall those questions?

A Yes, I do.

Q Can you explain why you were hoping to receive that call?

A Yes. Matt's requests of me were shocking. I felt, again, like I was being taken advantage of by someone I trusted. And as silly as it might sound for someone who had worked in politics and probably should have known better, I didn't want to believe that a trusted friend and mentor would actually put me in this position. And so that comment to Mr. Pelzer that was running the article was intended to express that I really did hope that maybe there was a strange Kasich/French reunion, as little sense as that made

1 to me and I'd get a phone call and there would actually be
2 other work from Matt that maybe there was something
3 legitimate that the money and the requests were intended
4 for. That call never came.

5 **Q** You were asked a series of questions about your
6 evasion from giving a specific number in response to
7 Mr. Borges' inquiries. Why did you evade providing a
8 specific number to Mr. Borges?

9 **A** I didn't want to give him information that would
10 betray my team.

11 MS. GAFFNEY-PAINTER: No further questions, Your
12 Honor.

13 THE COURT: Very well. Recross on redirect, if
14 any?

15 MR. GLICKMAN: No thank you.

16 MR. LONG: Very briefly, Your Honor.

17 THE COURT: Very well.

18 **RECROSS-EXAMINATION**

19 **BY MR. LONG:**

20 **Q** Ms. Painter just asked you about never getting a call
21 to work on that unrelated project, right?

22 **A** Yes.

23 **Q** But do you remember texting Agent Wetzel in late
24 October, November of 2019, that you found out why Matt
25 hadn't called you; do you remember texting him that?

1 **A** No, I do not.

2 **Q** You don't recall that at all?

3 **A** It's been a long time.

4 **Q** Okay. So there wasn't -- that's fine.

5 MR. LONG: No further questions, Your Honor.

6 THE COURT: Very well. You may step down, sir.

7 You're free to go.

8 (Witness left the stand.)

9 THE COURT: Where do we stand from the government's
10 perspective?

11 MS. GLATFELTER: Your Honor, we're finished
12 presenting witness testimony. I believe there are --
13 there's at least one stipulation that needs to be read to
14 the jury before we would close our evidence.

15 THE COURT: What stipulation?

16 MS. GLATFELTER: Regarding the interstate commerce.

17 THE COURT: Regarding?

18 MS. GLATFELTER: I'm sorry, there's three. I'll
19 let my colleague Mr. Singer address those since he handled
20 those.

21 MR. SINGER: Your Honor, there are three
22 stipulations the parties have entered into.

23 THE COURT: Yeah. I sent you an e-mail about that,
24 right?

25 MR. SINGER: Apologize, Your Honor, I have not seen

1 it.

2 THE COURT: I'm sorry?

3 MR. SINGER: I apologize, Your Honor, I have not
4 seen the e-mail.

5 THE COURT: Sent it during the testimony. In any
6 case, we'll deal with the stipulation; and if they have to
7 be read at this time in the presence of the jury, I will.
8 They will certainly go with the jury up for their
9 consideration, and I can read the stipulations when they
10 return. Subject to the stipulations being addressed, where
11 do we stand from the government's perspective,
12 Ms. Glatfelter?

13 MS. GLATFELTER: The government would rest subject
14 to the admission of our stipulations.

15 THE COURT: Very well. Government has rested
16 subject to some stuff coming in. So this is a natural break
17 point, but we're not breaking for the day, but I've got a
18 fair amount of work to do on this case outside your
19 presence. So I'm going to break for 45 minutes, until 3:15.
20 I'm not down here sleeping. We're not watching movies.
21 We're not eating candy. We're working on the case and we
22 need you to go to your room -- forgive me -- and enjoy your
23 break. At the break, don't discuss the case with anyone,
24 including among yourselves. No independent research. No
25 checking out the media. Continue to keep an open mind.

1 You've heard the government's evidence. We're not done.
2 Out of respect for you, we'll rise as you leave for
3 45 minutes.

4 THE DEPUTY: All rise for the jury.

5 (Jury exited the courtroom at 2:27 p.m.)

6 THE COURT: Jury has left the room. You may all be
7 seated. We remain on the record. So the government has
8 rested subject to my addressing the stipulations, another
9 issue I need to address. But here we are at 2:30 with a
10 45-minute break. Where do we stand from the defense's
11 perspective, Mr. Householder's counsel?

12 MR. OLESKI: Judge, at this time we're prepared to
13 present our evidence. And at this time, we also would move
14 pursuant to Rule 29 of the Federal Rules of Criminal
15 Procedure for judgment of acquittal because the government
16 presented insufficient evidence for each element of the
17 offense charged.

18 THE COURT: Are you prepared to make that motion at
19 this time?

20 MR. OLESKI: I just -- I just made it, Judge.

21 THE COURT: Do you want to argue it?

22 MR. OLESKI: Unless the Court has questions, I
23 would prefer just to make a general motion at this time.

24 THE COURT: All right. Government wish to respond?

25 MR. SINGER: Your Honor, I'm happy to answer any

1 questions. We believe the evidence satisfies all of the
2 elements of the charge. I'm happy to walk through how that
3 evidence satisfies each -- how the evidence satisfies each
4 of those elements. The defense has not presented any
5 argument other than to rest on the fact that they filed,
6 that they're presenting the motion. So unless the Court has
7 questions or concerns, I will sit down.

8 THE COURT: Very well. Does Mr. Borges wish to be
9 heard on the issue?

10 MR. LONG: Your Honor, we, too, would make a motion
11 pursuant to Federal Rule 29 for a judgment of acquittal
12 based on insufficient evidence; but we don't see the need at
13 this point for further argument, but if there are questions,
14 we would be happy to answer them.

15 THE COURT: Very well. Can you provide me with
16 what I have prepared, please?

17 Both defendants have moved for acquittal or dismissal
18 pursuant to Rule 29. Rule 29(a) states that, quote:

19 "After the government closes its evidence or after the
20 close of all of the evidence, the Court on the defendant's
21 motion must enter a judgment of acquittal of any offense for
22 which the evidence is insufficient to sustain a conviction."

23 The test for determining sufficiency of the evidence
24 is, quote, "whether, viewing the evidence in the light most
25 favorable to the prosecution, any rational trier of fact

1 could find the essential elements of the crime beyond a
2 reasonable doubt." *Jackson versus Virginia*, United States
3 Supreme Court.

4 When resolving a Rule 29 motion, the Court may not make
5 determinations regarding the credibility of witnesses or the
6 weight of such evidence. *United States versus Davis*, Sixth
7 Circuit. Further, the Court -- the government must be given
8 the benefit of all reasonable inferences drawn from the
9 evidence, and the Court must resolve any conflicts in the
10 testimony in favor of the prosecution. *United States versus*
11 *Tilton*, Sixth Circuit.

12 Here, viewing the light -- viewing the evidence in the
13 light most favorable to the prosecution, the Court finds
14 that the government has presented sufficient evidence to
15 sustain a conviction. That is, after viewing the evidence
16 in the light most favorable to the prosecution, a rational
17 trier of fact could find the essential elements of the crime
18 beyond a reasonable doubt as to each defendant.

19 Accordingly, the Rule 29 motion is denied.

20 Could I see the co-conspirator statement we've
21 prepared?

22 I wish to rule finally on co-conspirator statements.
23 Pursuant to Rule 801(d)(2)(E), a statement is not hearsay
24 if, quote: "The statement is offered against an opposing
25 party and was made by the party's co-conspirator during and

1 in furtherance of the conspiracy," end quote.

2 Alleged co-conspirator statements may be admitted into
3 evidence, quote: "If the Court finds by a preponderance of
4 the evidence: 1, that a conspiracy existed; 2, that the
5 defendant was a member of the conspiracy; and, 3, that the
6 co-conspirator statements were made in the course of and in
7 furtherance of the conspiracy," end quote. *United States*
8 *versus Presley*, Sixth Circuit. In line with Sixth Circuit
9 practice and case law, this Court conditionally admitted the
10 statements of alleged co-conspirators subject to defendants'
11 continuing objection and conditioned upon the government
12 meeting its burden during its case-in-chief. See
13 Document 161.

14 Now that the government has rested, the Court must rule
15 on admission of the statements. *United States versus*
16 *Barrett*, Sixth Circuit. In making this determination, the
17 Court considers the statements themselves, but those
18 statements must also be corroborated by independent
19 evidence. Rule of Evidence 801(d)(2)(E), *United States*
20 *versus Payne*, Sixth Circuit.

21 And, here, the Court finds that the government has met
22 its burden by a preponderance of the evidence, as supported
23 by corroborating evidence and testimony that: 1, there was
24 a conspiracy; 2, defendants were members of that conspiracy;
25 and, 3, the challenged statements were made in furtherance

1 of the conspiracy.

2 Specifically, the Court considered:

3 The statements themselves. Evidence of the
4 relationships between the alleged co-conspirators. Evidence
5 of common goals among co-conspirators and the organizations
6 used to further those goals collectively, all constituting
7 the alleged enterprise. Evidence of actions taken
8 demonstrating the fulfillment of acts in furtherance of the
9 goals of the alleged conspiracy. Evidence of in-person
10 meetings as well as e-mail, text and telephone
11 communications between the alleged co-conspirators,
12 including defendants, as well as communications with support
13 staff and colleagues. Evidence of campaign contributions,
14 including the timing and amounts of those contributions, as
15 well as evidence of how the alleged co-conspirators,
16 including defendants, used those funds. The structure and
17 set-up of the various entities used to collect contributions
18 and make payments in furtherance of the goals of the alleged
19 conspiracy. And evidence of attempted concealment of
20 communications and conduct.

21 Accordingly, the co-conspirator statements are
22 admissible pursuant to Rule 801(d)(2)(E) and defendants'
23 continuing objection is overruled.

24 I was required to deal with Rule 29 and the
25 co-conspirator statements at this stage, and I have done so.

1 I'd ask that one attorney for each party touch base with my
2 law clerk on the issue of the stipulations.

3 And I'm prepared to break and reconvene soon. Is there
4 anything you need to address before I recess for a while,
5 from the government's perspective?

6 MS. GLATFELTER: No, Your Honor. Thank you.

7 THE COURT: From Mr. Householder's?

8 MR. OLESKI: No, thank you, Judge.

9 THE COURT: From Mr. Borges'?

10 MR. SCHNEIDER: No, thank you, Judge.

11 THE COURT: How long are we going to break for?

12 MS. FRANKIAN: You said 45 minutes.

13 MR. LONG: Your Honor, I believe it was
14 approximately 2:25 when the government rested and the jury
15 was excused.

16 THE COURT: Well, I'm going to try and get them
17 down here, if we can, by 3. Is that acceptable or do we
18 need the full break?

19 MS. FRANKIAN: Rebecca says I think we told them
20 3:15.

21 THE COURT: We'll break until 3:15. During the
22 break, take a break. We're in recess until that time.

23 THE DEPUTY: All rise. This court is in recess.

24 (Recess taken from 2:37 p.m. to 3:13 p.m.)

25 THE DEPUTY: All rise. This court is in session

1 pursuant to the recess.

2 THE COURT: Thank you. Please be seated. Back on
3 the record outside the presence of the jury. I need to make
4 a statement. At the beginning of the break, when counsel
5 for the government and the defendants met with my law clerk,
6 the government noted its intent to raise a couple of
7 objections in anticipation of Mr. Seitz' upcoming testimony
8 momentarily. I'll summarize the objections, get a
9 seat-of-the-pants reaction. If you wish to be heard
10 further, I'll give you that opportunity.

11 First, the government stated that it would object to
12 Mr. Seitz testifying to anything Mr. Householder told him.
13 Assuming, of course, that it's not subject to any exception,
14 the parties' statements are hearsay unless they are authored
15 in the first instance by the opposing party. So that
16 resolves that issue.

17 Second, the government would object to testimony
18 regarding the merits of House Bill 6. This Judge has stated
19 in a number of my orders and pretrial rulings that the
20 merits of House Bill 6 are not relevant. The fact that the
21 bill may have been good law or not is not a defense to the
22 charge of RICO conspiracy or to the predicate act. That
23 being said, the government did introduce testimony that
24 undermined the merits of House Bill 6.

25 Now, to be fair, it did so in the context of testimony

1 regarding a witness' decision not to vote for it and the
2 repercussions of that decision. However, the government
3 could have elicited, sited, that same testimony, not asking
4 for a detailed narrative disparaging the legislation. For
5 instance, the government could have asked whether the
6 witness supported House Bill 6 or voted for House Bill 6 and
7 then simply asked what happened as a result. But the
8 government specifically asked at least one witness that I
9 recall, why didn't you support House Bill 6, and in
10 response, the jury heard the negatives of the bill.

11 I think what's good for the goose is good for the
12 gander, so I'm inclined to allow the defense to ask that
13 same very limited question and then move on. But I repeat
14 that the merits of House Bill 6 are not relevant, and if the
15 defense's witness decides to wax poetic about it or if you
16 elicit any further testimony about the merits, I will cut it
17 off, and if need be, I'll then give the jury a curative
18 instruction to explain that the merits are not relevant and
19 are not a defense.

20 So having said that, anybody -- does the government, in
21 the first instance, it's your objection, need to be heard
22 further given the Court's initial ruling?

23 MS. GLATFELTER: Your Honor, thank you very much
24 for the preliminary ruling. We understand that. I would
25 just note for the record that, in addition to the merits of

1 House Bill 6, what had started with the cross-examination of
2 Agent Wetzel through almost every cross-examination in this
3 case has been the financial need and testimony in asking and
4 eliciting testimony about the state of emergency, what the
5 need of FirstEnergy was for this legislation, which is not
6 uncontroversial.

7 And so in addition to -- in addition to asking
8 witnesses directly about the merits, I think that those
9 types of questions do get into the merits, and so we have
10 been fighting this battle since the cross-examination of
11 Agent Wetzel, and I would just note for the record that
12 defense counsel objected to questions about the merits
13 during the witness' testimony, the legislator that the Court
14 has referred to, and those were sustained, is my
15 recollection. But we will, of course, abide by the Court's
16 direction and so forth. I understand it, Your Honor.

17 THE COURT: All right. Well, the direction of the
18 Court is that the defense will have an opportunity to ask
19 briefly about House Bill 6, pros and cons, the way the
20 government did, but it's not relevant, and I'm going to cut
21 it off and I'm going to give a curative instruction if it
22 proceeds.

23 Has the government been heard on the Court's initial
24 ruling?

25 MS. GLATFELTER: Yes, Your Honor. Thank you.

1 THE COURT: All right. On behalf of
2 Mr. Householder, anything before we -- have you been heard
3 on my initial ruling?

4 MR. OLESKI: We understand your ruling, Judge. And
5 just to be clear, the question that I intend to ask
6 Mr. Seitz is simply, why did you vote yes for House Bill 6,
7 and that's it.

8 THE COURT: Very well. And you understand the
9 admonition that the statements of this witness as to what
10 Mr. Householder may or may not have said is hearsay and not
11 admissible?

12 MR. OLESKI: Agreed that, in general, those
13 statements would be hearsay, unless there's some hearsay
14 exception that might apply, but yes, we agree.

15 THE COURT: Very well. Does counsel for Mr. Borges
16 need to be heard on this initial ruling before the witness
17 comes in?

18 MR. SCHNEIDER: Nothing other than to say we agree
19 with the preliminary ruling.

20 THE COURT: Very well. We discussed with counsel
21 the stipulations and they're not going to be read at this
22 time. They're going to be read at the time of the
23 instruction to the jury. The government is amenable to that
24 approach; is that right?

25 MS. GLATFELTER: Yes, Your Honor. Thank you.

1 THE COURT: Mr. Householder's counsel as well?

2 MR. OLESKI: Yes, Judge.

3 THE COURT: Mr. Borges' counsel as well?

4 MR. LONG: Yes, Your Honor.

5 THE COURT: All right. We'll call for the jury.

6 If you need to communicate with your witness about the
7 Court's ruling, you'll have a chance before he comes into
8 the room. If you don't, you're driving it, because you're
9 asking the questions.

10 MR. OLESKI: Of course. Thank you, Judge. If I
11 could have a moment, then?

12 THE COURT: Well, I'm going to call for the jury,
13 so jump on your moment.

14 MR. OLESKI: Thank you, Judge.

15 THE COURT: Very well.

16 (Pause.)

17 THE COURT: Depending on the status of the jury,
18 I'd like to get that lawyer back in the room.

19 MR. GLICKMAN: On my way.

20 THE COURT: And the witness.

21 MR. GLICKMAN: Sorry, Judge, did you say "and the
22 witness"?

23 THE COURT: Yeah. Just so we don't have to go
24 running out of the courtroom again. Thank you.

25 (Pause.)

1 THE DEPUTY: All rise for the jury.

2 (Jury entered the courtroom at 3:23 p.m.)

3 THE COURT: You may all be seated. Thank you. 14
4 Members of the Jury are back. Thank you for your patience
5 and your close attention. Government has rested.
6 Mr. Householder's team will begin to present testimony.

7 Where do we stand from Mr. Householder's perspective,
8 Counsel?

9 MR. OLESKI: Thank you, Judge. Larry Householder
10 calls Bill Seitz.

11 THE COURT: If Mr. Seitz would be willing to
12 approach and follow the woman with red hair. And,
13 Mr. Seitz, if you'd stop where you are, pivot and raise your
14 right hand for the oath to tell the truth.

15 (Witness took the stand and was sworn.)

16 THE COURT: You can take the witness stand,
17 Mr. Seitz. I tell everybody the chair tips back in spirit
18 of full disclosure.

19 THE WITNESS: Thank you.

20 THE COURT: Once you're settled and comfortable, we
21 need your mouth close to the fancy federal microphone.

22 On behalf of Mr. Householder, you may inquire.

23 MR. OLESKI: Thank you, Judge.

24 Good afternoon, sir.

25 THE WITNESS: Good afternoon.

DIRECT EXAMINATION

BY MR. OLESKI:

Q Would you please state and spell your name for the record?

A Yes. It's William Seitz, S-E-I-T-Z.

Q Are you are appearing here pursuant to a subpoena?

A I am.

Q Who issued that subpoena?

A Your side, you did, Mr. Bradley maybe.

Q Could you briefly explain your educational background?

A Thank you. Yes, I graduated from Western Hills High School here in Cincinnati in 1972. I then obtained my undergraduate degree at the University of Cincinnati graduating summa cum laude with honors in history. I then obtained my law degree at the University of Cincinnati, Law School, where I finished first in my class and was on the law review, and then I went on to my work experience.

Q And where do you currently work, sir?

A Currently, I am at Dinsmore & Shohl, a law firm here in town, as partner of counsel.

Q And where do you currently live?

A I currently live in Green Township where I've lived almost all of my life.

Q Have you ever held elected office, sir?

A Yes, I have.

1 **Q** What elected offices have you held?

2 **A** Well, my other career beyond being a lawyer started in
3 1989 when I was elected to one term on the Cincinnati Public
4 School Board. Thereafter, I was elected twice to Green
5 Township Trustee. In 2000, when the term limits kicked in
6 and our current State Representative could no longer run, I
7 ran for State House of Representatives. I was elected in
8 2000, 2002, 2004, 2006. In October 2007, I was appointed to
9 the Ohio Senate. I then ran for the Ohio Senate and won in
10 2008 and 2012. After that four-year term ended in 2016, I
11 ran for the Ohio House again and was elected to the Ohio
12 House in 2016, 2018, 2020, and 2022. So I am now serving my
13 final two-year term in the House.

14 **Q** During your time in the House of Representatives, did
15 you hold any leadership positions?

16 **A** Yes. Yes, sir, I did. Yes, I was, for relevance of
17 this proceeding, chair of both the Senate and House Public
18 Utilities Committees and I also have served in House
19 majority leadership under six different speakers of the Ohio
20 House, Speaker Husted, who's now our lieutenant governor,
21 Speaker Rosenberger, Speaker Smith, Speaker Householder,
22 Speaker Cupp, and now Speaker Stevens.

23 **Q** You indicated that you served on the Public Utilities
24 Committee in the Ohio House of Representatives?

25 **A** Yes.

1 **Q** What does that committee do?

2 **A** Well, that committee is charged with helping to
3 develop the policy that governs our utilities in Ohio, both
4 electric and gas, and telephone, to the extent they're still
5 regulated at all.

6 **Q** When you were -- when did you first serve on that
7 committee?

8 **A** Well, I actually testified on the Public Utilities
9 Committee in my very first session, 2001 to '2, and I served
10 on then, but then I really became much more involved in
11 public utility law from and after 2008 when I was in the
12 Senate. So my expertise in the issues developed from 2008
13 through today.

14 **Q** And in 2000, when you were first appointed to that
15 committee, who appointed you to that committee?

16 **A** That would have been Speaker Householder because he
17 was our Speaker from 2001 to 2004.

18 **Q** And as a result of your experience working on the
19 Public Utilities Committee in the early 2000s, did you come
20 to have an understanding of what Mr. Householder's views on
21 energy policy were?

22 **A** Sure, I had --

23 MS. GLATFELTER: Objection, Your Honor.

24 MR. OLESKI: I'm asking for his understanding.

25 THE COURT: The objection is overruled.

1 **Q** And what was that understanding, sir?

2 **A** Well, it was always my understanding that an essential
3 tenet of Mr. Householder's belief was for energy
4 independence both in the United States and the State of
5 Ohio, that goes back to his very first address to the Ohio
6 House when he was first sworn in as Speaker in 2001.

7 **Q** And was --

8 THE COURT: Excuse me, is there an objection?

9 MS. GLATFELTER: Yes, I do. I'd like to be heard
10 at sidebar, please.

11 THE COURT: Very well.

12 **SIDEBAR CONFERENCE.**

13 MS. GLATFELTER: Thank you, Your Honor. I'm trying
14 not to be disruptive here. Whether it's phrased as belief
15 or hearsay, it's still hearsay. His hearsay, his belief, is
16 formed on understanding of discussions with Householder
17 about what his views are. This is all hearsay. And also he
18 has not been noticed as an expert, so I will object to the
19 extent that he is going to talk about his experience in
20 public utilities law and talking about the merits of
21 deregulation, regulation, all of this kind of stuff.

22 MR. OLESKI: So I'll address that last part first.
23 I do not intend to try to qualify Mr. Seitz as an expert or
24 to ask him any opinion questions about the public utilities
25 laws in general. I'm simply trying to get some background

1 for the jury. But I do think it's permissible to ask him
2 questions about what his understanding is and whether -- I'm
3 not asking him how he formed that understanding, and I don't
4 think that his understanding -- the only way that he could
5 have come to an understanding of what Mr. Householder's
6 beliefs are would be through hearsay. So I think that the
7 objection should be overruled, and, frankly, I'm moving on
8 to a different subject.

9 THE COURT: I think it's back-dooring hearsay, and
10 I don't want you doing it again.

11 MR. OLESKI: Okay.

12 **SIDEBAR CONCLUDED.**

13 THE COURT: Once the court reporter is resituated,
14 you may proceed.

15 **Q** Was Mr. Householder term limited out in 2004?

16 **A** Yes, he was.

17 **Q** In -- I want to fast-forward now to 2016. You
18 indicated that you ran in 2016 for the Ohio House of
19 Representatives?

20 **A** Yes, I did.

21 **Q** And were you successful?

22 **A** Yes, I was.

23 **Q** And at that time, was Mr. Householder also running?

24 **A** Yes.

25 MR. OLESKI: Judge, permission to publish what's

1 been admitted as Government Exhibit 212?

2 THE COURT: Yes.

3 MR. OLESKI: And, PJ, if you could cull out that
4 November 10th, 2016, e-mail.

5 **Q** Mr. Seitz, do you see that document on your screen?

6 **A** Yes, I do.

7 **Q** And what's the date of that e-mail?

8 **A** November 10th, 2016.

9 **Q** And could you just read the content of that e-mail?

10 **A** Sure. Tony, I discussed a game plan for utility
11 relief yesterday with Bill Seitz. We are more than ready to
12 sit down and craft something with utilities that will make
13 sense, L.

14 MR. OLESKI: You can take that down, PJ.

15 **Q** After the general elections in November of 2016, was
16 there a retreat held by the Republican Caucus?

17 **A** Yes, yes. There's always a retreat held typically in
18 January of the new session.

19 **Q** And where was that held?

20 **A** Well, the retreat in '17 would have been in, north of
21 Columbus at Lewis Center at the Nationwide Center, I think.

22 **Q** And after that, after that retreat, did you have
23 meetings with leadership in Florida?

24 **A** Yes. We had an annual fundraiser in the Bonita
25 Springs area of Florida and I was there for that and that

1 was in February of 2017, as memory serves.

2 MR. OLESKI: Judge, may I show the witness
3 Householder Exhibit 481, which has not been admitted?

4 THE COURT: Yes. Show it to the witness and the
5 lawyers.

6 MR. OLESKI: Judge, pursuant to our stipulation, I
7 would move to admit this document.

8 THE COURT: Any objection?

9 MS. GLATFELTER: No, Your Honor.

10 MR. SCHNEIDER: No.

11 THE COURT: It's admitted.

12 MR. OLESKI: May I publish?

13 THE COURT: Yes.

14 MR. OLESKI: Thank you. And, PJ, if you could just
15 cull out that 4:00 p.m. entry.

16 **Q** Do you see that document on your screen, sir?

17 **A** I do.

18 **Q** And while you were in Florida for a fundraiser, did
19 you have meetings with FirstEnergy executives?

20 **A** I did. And we had an afternoon meeting and this shows
21 that it was at Ruth Chris Steak House with some of the folks
22 from FirstEnergy; Speaker Rosenberger, Speaker pro tempore
23 Shuring and myself. And this says Finance Chair Ryan Smith.
24 I don't recall whether Ryan was there or not, but I know the
25 other three of us were. And Mr. Jones was there and

1 Mr. Dowling was there. I'm not sure I know who JDB is, and
2 TRP would be Ty Pine.

3 **Q** Was Mr. Pine at that meeting?

4 **A** I don't specifically recall that Pine was there. I
5 know Jones and Dowling were there.

6 **Q** And Mr. Jones is the CEO of FirstEnergy?

7 **A** Yes, he was at the time.

8 **Q** And Mr. Dowling was also an executive of FirstEnergy?

9 **A** Yes, he was.

10 **Q** And during the course of this meeting, what did you
11 discuss?

12 **A** They --

13 MS. GLATFELTER: Objection, Your Honor, hearsay.

14 THE COURT: Sustained as to form.

15 **Q** Is it unusual for members of House leadership to meet
16 with executives?

17 MS. GLATFELTER: Objection, Your Honor, as to usual
18 and customary.

19 THE COURT: Sustained pursuant to pretrial orders.

20 **Q** And during the 2017 term of the General Assembly, were
21 you involved in a piece of legislation known as ZEN?

22 **A** Yes.

23 **Q** And what is ZEN?

24 **A** ZEN stood for Zero Emission Nuclear. It was a program
25 and a bill that was going to provide production credits to

1 the owners and operators of the two nuclear power plants
2 that were situated in Ohio. It was being modeled at the
3 time after similar legislation that was being pursued in
4 Illinois, New York, New Jersey, and I believe Pennsylvania
5 had some on the docket as well, but it never passed in
6 Pennsylvania.

7 **Q** And were there other components of the ZEN legislation
8 other than the subsidy?

9 **A** Of that particular bill, not that I recall.

10 **Q** And what about, were there other pieces of legislation
11 that --

12 **A** There were. I was chairman of the Public Utilities
13 Committee at the time, and there were -- I called it the
14 boxcar theory.

15 **Q** And what's the boxcar theory?

16 **A** The boxcar theory was, we're going to take these bills
17 one at a time because I had found in my experience in the
18 Senate that when you tried to put too much in a utility
19 bill, you couldn't get it passed because there would be too
20 many disagreements. So the first boxcar was to cap or
21 eliminate various costly mandates that had been on
22 customers' bills since 2008.

23 **Q** And in simple terms, what are the mandates?

24 **A** The mandates were an energy efficiency mandate that
25 was requiring the utilities to reduce electric usage by

1 billing customers for energy efficiency programs that the
2 customers had no ability to opt out of, so that was one set
3 of mandates. The other set of mandates was a mandate that
4 the utility companies purchase increasing, ever increasing
5 amounts of their electric fuel from renewable sources such
6 as wind and solar, which were, by the way, more expensive
7 than alternate fuels that they could have made electricity
8 with. So there was the renewable mandate and the EE mandate
9 and my phrase for the both of them was the march up mandate
10 mountain because it was becoming expensive for consumers
11 both commercial, industrial and residential and that's why
12 we had a bill that was going to cap or eliminate those
13 mandates.

14 **Q** And what was the second boxcar?

15 **A** The second boxcar was the OVEC boxcar.

16 **Q** What is OVEC?

17 **A** OVEC is the Ohio Valley Electric Cooperative, that is
18 a consortium of about 15 to 16 different utility companies
19 from different states.

20 THE COURT: Is there an objection?

21 MS. GLATFELTER: Relevance.

22 THE COURT: Sustained.

23 THE WITNESS: Okay. Well, that was the second box.

24 THE COURT: Excuse me, the objection is sustained.

25 **Q** What was the third box?

1 THE COURT: Counsel, I want you to abide by the
2 spirit of my order before this witness came on. You've used
3 up your leeway.

4 MR. OLESKI: Understood, Judge.

5 **Q** Ultimately, did these pieces of legislation go
6 anywhere?

7 **A** The mandate bill I gave to my friend, Representative
8 Blessing, it passed the House. It did not pass the Senate,
9 was not signed by the governor. The OVEC bill did not pass
10 and the ZEN bill did not pass either in 2017.

11 **Q** Was House leadership supportive of these pieces of
12 legislative at the time?

13 **A** Well, they were certainly supportive of the mandates
14 bill because it passed the House. I think they were
15 supportive of the OVEC bill. The ZEN bill created a
16 division of responsibility within the House leadership
17 because it was clear that the governor was not supportive,
18 at the time Governor Kasich, and that's one reason that that
19 bill did not move forward during that term of the General
20 Assembly.

21 **Q** During the 2017 to 2018 time period, were you aware of
22 a race to be elected Speaker to the Ohio House of
23 Representatives?

24 **A** Yes, I was.

25 **Q** And who was that race between?

1 **A** Well, it was between Ryan Smith, who had been elected
2 Speaker after Speaker Rosenberger resigned in April of 2018,
3 and Larry Householder, who had come back in 2017, was newly
4 inducted into the House, and the two of them were vying for
5 who would be Speaker in the period 2019 and forward.

6 **Q** And who did you support?

7 **A** I was a part of Ryan Smith's leadership team. I
8 supported Ryan Smith. I voted for Ryan Smith.

9 **Q** And after the General Elections in November of 2018,
10 was that race to be Speaker still ongoing?

11 **A** It was indeed. The warring camps were still at odds,
12 and, yes, it was very much a hot item.

13 **Q** Did you do anything to try to bring those warring
14 camps together?

15 **A** I did.

16 **Q** What did you do?

17 **A** My good friend, Representative James Butler from
18 Dayton, he was a big supporter of Larry Householder, and I
19 was supporting Ryan Smith. And the two of us kept trying to
20 find a way to get Larry Householder and Ryan Smith to meet
21 and confer and mediate their differences going so far as to
22 say, listen, we'll put Larry in one room and we'll put Ryan
23 in the other room and we'll play shuttle diplomacy, but Mr.
24 Smith was not interested in any such meeting.

25 **Q** Ultimately, there was a vote to be Speaker?

1 **A** Ultimately, yes, there was a vote to be Speaker, yes,
2 sir, that's true and Mr. Householder was elected, yes.

3 **Q** Who selects the leaders of the House?

4 **A** Well, typically, what happens is, once a Speaker is
5 selected, the Speaker will nominate a slate of people to
6 serve on his leadership team, and most times, almost always,
7 the full House has to vote on that slate and most times,
8 they go along with whomever the Speaker determines to be his
9 slate. It's kind of like football, you've got a head coach
10 and then the head coach gets to pick the assistant coaches.

11 **Q** And how many leadership positions are there in the
12 Ohio House?

13 **A** Well, there are six if you count the Speaker and there
14 are seven if you add in the finance committee chairman
15 because sometimes the finance committee chairman sits in on
16 leadership meetings.

17 **Q** Did Mr. Householder appoint anybody who voted for Ryan
18 Smith to a leadership position?

19 **A** Yes, he appointed me. Retained me as majority leader
20 and he also appointed Representative Lanese who had been an
21 ardent supporter of Ryan Smith as well.

22 **Q** After January of 2019, did the Republican Caucus hold
23 a retreat?

24 **A** Yes, we did again hold another one of those retreats
25 up there at the Nationwide Center, Lewis Center, Ohio.

1 **Q** And what's the purpose of these retreats?

2 **A** The purpose of the retreats is No. 1, socialization
3 with the incoming members of the caucus. No. 2, typically
4 the statewide elected officials will come and say hello.
5 No. 3, they'll bring in somebody to talk about the ethics
6 law. No. 4, they'll bring in somebody to talk about the
7 open records and open meetings laws. And then, No. 5, they
8 divide into groups and sort of spitball whiteboard ideas for
9 legislation that members would like to pursue during the
10 incoming two-year period of the General Assembly.

11 **Q** And would these be priority pieces of legislation?

12 **A** Well, from that whole long list of whiteboards, which,
13 by the way, I never found to be too revealing, because
14 people would say, I want to do something about education,
15 I'd say, yeah, okay, like what, right, so -- but
16 nonetheless, from all of those whiteboards, the Speaker
17 would then go back to his senior staff and determine which
18 particular pieces of legislation would be the priority
19 pieces of legislation.

20 **Q** And was one of the priority pieces of legislation
21 energy legislation?

22 **A** Yeah, yes.

23 **Q** Did you ever meet with Mr. Householder about this
24 energy legislation?

25 **A** Yes, I did. That would have been after the retreat,

1 after the leadership slate was inducted. My best guess is
2 probably late February or March of 2019.

3 **Q** And ultimately, was House Bill 6 introduced?

4 **A** Yes.

5 **Q** And as introduced, could you briefly explain your
6 understanding of what that piece of legislation did?

7 **A** Yes. That legislation was principally composed of two
8 main points. First --

9 **Q** What's the first point?

10 **A** The elimination or capping of the various mandates
11 that I previously talked about, energy efficiency and
12 renewables. Second, the proposal was to set up a clean air
13 fund. The amount of money put into that fund would be
14 sufficient to generate production credits for each kilowatt
15 of electricity generated by the two nuclear power plants
16 then existing in Ohio and additional money, significant
17 amount of money, to provide similar credits for any new or
18 existing renewable resources like wind and solar farms and
19 that was the gist of what that bill was aiming to
20 accomplish.

21 **Q** And after House Bill 6 was introduced, were there
22 committee hearings?

23 **A** Yes. I was not on the committee to which that bill
24 was assigned, nor was I a sponsor of the bill. Two other
25 people sponsored the bill, but yes, there were committee

1 hearings and because of my prior role as chairman of the
2 House Public Utilities Committee and chairman of the Senate
3 Public Utilities Committee, many folks came to me and
4 bounced off ideas for improvement, amendment, modification,
5 to the bill.

6 **Q** And to take these in order, who are the sponsors of
7 House Bill 6?

8 **A** The two sponsors were Representative Callender and
9 Representative Wilkin.

10 **Q** And is one of the nuclear power plants in
11 Representative Callender's district?

12 **A** Yes.

13 **Q** And these committee hearings, what happens at a
14 committee hearing?

15 **A** Well, at a committee hearing, proponents, opponents,
16 interested parties, come in and testify about the merits or
17 perceived demerits of the legislation.

18 **Q** And are these hearings recorded?

19 **A** They are video, you can watch them on public TV if
20 anybody is really an insomniac, yeah.

21 **Q** And were there a number of hearings?

22 **A** Yes.

23 **Q** As a result of those hearings and meetings and
24 meetings with other legislators and interested parties, were
25 there amendments to House Bill 6?

1 **A** Yes.

2 **Q** Were you involved in any of those amendments?

3 **A** Yes.

4 **Q** What amendments were you involved in?

5 **A** There were three that I was principally involved in.

6 **Q** What are those three?

7 **A** The first one was we needed to beef up the amount --

8 THE COURT: I'm going to interject myself and
9 indicate that I've already ruled on the depth of the
10 testimony here. Move along.

11 MR. OLESKI: Fair enough.

12 **Q** When Mr. Householder became Speaker, were you named to
13 a leadership position?

14 **A** Yes, I was retained as majority leader.

15 **Q** And Mr. Householder made Ms. Lanese -- named her to a
16 leadership position?

17 **A** Yes.

18 **Q** Did Dave Greenspan vote for Ryan Smith to be Speaker?

19 **A** Yes.

20 **Q** Are you aware that Ms. Lanese and Mr. Greenspan
21 testified in this case?

22 **A** I have read that in the newspaper, yes.

23 **Q** And they testified that they each had a position
24 and -- strike that.

25 And do you remember that they voted -- that they each

1 voted no on House Bill 6?

2 **A** That's correct.

3 **Q** What did you vote on House Bill 6?

4 **A** I voted yes.

5 **Q** Why?

6 **A** There are six reasons: It preserved the jobs of those
7 two plants, the tax base upon which the local communities
8 depended. It was going to provide carbon-free electricity
9 for the remaining useful life of the plants. Those plants
10 provided 85 percent of the carbon-free electricity produced
11 in Ohio, even though they were only 15 percent of the
12 generated capacity. No. 4, it was going to keep generating
13 the assets in Ohio, which we thought was important, because
14 even now Ohio imports about 30 percent of its electricity
15 from other states.

16 And then the two most important reasons for me were the
17 need to preserve diverse electric fuel supplies. Our mother
18 always taught us, don't put all your eggs in one basket.
19 And so by preserving some coal and some nuclear, spurring
20 utility scale solar development, which the bill did, and
21 also encouraging the continued deployment of natural gas,
22 which we had in copious supply, we were preserving a diverse
23 fuel source with which to make electricity. It proved to be
24 a very important thing that we did because gas was very
25 cheap at the time, but some of us were visionary enough to

1 see that it was --

2 THE COURT: I'm going to interrupt and indicate the
3 question has been asked and answered.

4 THE WITNESS: Well, the --

5 THE COURT: You're done. Question, next.

6 MR. OLESKI: A moment to confer, Judge?

7 THE COURT: Yes.

8 MR. OLESKI: Judge, I believe that Mr. Seitz had
9 one more reason he was going to state. I just ask
10 permission for him to state that last reason.

11 THE COURT: Yes, you can state the sixth reason.

12 THE WITNESS: Thank you, Your Honor. The last
13 reason was the most important one, the Legislative Service
14 Commission, whom we charge with the coming up with a fiscal
15 impact of every bill we pass -- they're an independent
16 nonpartisan organization -- calculated that the bill over
17 its useful life would save the rate payors of Ohio
18 \$2.3 billion. So the net effect of the bill and all its
19 parts was to save rate payors over \$2 billion over its
20 useful life.

21 MR. OLESKI: Moment to confer?

22 THE COURT: Yes.

23 Q Sir, while House Bill 6 was pending in the House of
24 Representatives, did you participate in whip sessions with
25 Mr. Householder?

1 **A** Yes.

2 **Q** And what's a whip session?

3 **A** Well, we would bring in small groups of people that we
4 hoped to persuade them to vote for House Bill 6 and hear
5 their reasons why they might not want to.

6 **Q** And at any of those meetings that you attended with
7 Mr. Householder, did you observe him threaten any
8 legislator?

9 **A** No.

10 **Q** Did you view him trying to coerce any legislator?

11 **A** No.

12 MR. OLESKI: I don't have anything further, Judge.

13 THE COURT: Very well. The government wish to
14 cross-examine?

15 MS. GLATFELTER: Yes. I wasn't sure if I was
16 before or after.

17 THE COURT: Mr. Borges wish to cross-examine, his
18 counsel?

19 MR. SCHNEIDER: No questions for this witness, Your
20 Honor.

21 THE COURT: Thank you.

22 MS. GLATFELTER: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 MS. GLATFELTER: Good afternoon, Mr. Seitz.

25 THE WITNESS: Good afternoon.

CROSS-EXAMINATION

BY MS. GLATFELTER:

Q So as I understand it, you have been in the General Assembly for about 23 years?

A Yes, ma'am.

Q And the ZEN legislation that you were talking about before from 2017 or the 2017 session, that ultimately didn't pass, right?

A That is correct.

Q Okay. And are you aware that FirstEnergy executives told Mr. Householder that he needed to pull back and not push ZEN legislation, they wanted you to take the lead because it angered the current Speaker?

A I'm not aware of that, no, ma'am.

Q Do you recall -- and you said you were the chair of the public utilities under Speaker Smith?

A Under Speaker Rosenberger.

Q Speaker Rosenberger, my apologies. And do you recall Mr. Householder attending the committee meetings for the ZEN legislation even though he was not on the committee?

A I do not specifically recall that, no.

MS. GLATFELTER: Okay. Your Honor, permission to show the witness what has been marked as Government Exhibit 540? And I have copies here for defense counsel.

THE COURT: Yes.

1 **Q** Mr. Seitz, do you recognize this as a text message
2 that you provided in response to a subpoena to the House of
3 Representatives?

4 **A** Yes, I do.

5 **Q** Great.

6 MS. GLATFELTER: Your Honor, permission to -- or
7 move to admit Government Exhibit 540 and publish?

8 THE COURT: Any objection?

9 MR. OLESKI: No.

10 MR. SCHNEIDER: No.

11 THE COURT: It's admitted. You may publish.

12 **Q** All right. Mr. Seitz, this is the text message that
13 you were referring to?

14 **A** Yes.

15 **Q** Okay. And if you can go ahead and tell us who this
16 text message involves, what communication?

17 **A** Yes, ma'am. That would be between me and Speaker
18 Householder.

19 **Q** Okay. And you see the date on that, July 25th?

20 **A** Yes, I do.

21 **Q** That's two days after the concurrence vote for House
22 Bill 6?

23 **A** I believe you're right.

24 **Q** Okay. And if you can go ahead and read what you wrote
25 to Mr. Householder?

1 **A** Sure. I said: What does it tell you that southwest
2 Ohio's delegation of GOP only had only one no vote on 6?
3 Representative Keller: The highest percentage of any region
4 of the state and the farthest from FirstEnergy territory
5 with 11 yes votes.

6 And he wrote back and said: They are smart.

7 And then I wrote back and said: Thanks. It tells me
8 we understand the team concept better than a lot of others
9 do.

10 **Q** Okay. And so your message there describes voting for
11 House Bill 6, right?

12 **A** Yes, ma'am.

13 **Q** And voting for House Bill 6 because you understand the
14 team concept?

15 **A** Yes. Our representatives from southwest Ohio did and
16 were convinced of its merits and happy to back this
17 important legislation.

18 **Q** So that's not what you wrote. You wrote that "they
19 understand the team concept," right?

20 **A** We were a team trying to pursue legislation to save
21 rate payors a couple billion dollars, a good team to be on.

22 **Q** All right. Now, I wanted to ask you a few questions,
23 a few questions about bank accounts and your presence at
24 certain meetings.

25 So you were not present for a meeting in October of

1 2018 at the State Street office with Mr. Householder and
2 representatives from FirstEnergy Solution where they
3 presented him a check for \$400,000, right?

4 **A** No, ma'am, I was not.

5 **Q** Okay. And you weren't present for a meeting in
6 Mr. Jones' office at the FirstEnergy headquarters with Larry
7 Householder and Jeff Longstreth in October of 20 --
8 October 23rd, 2018, right?

9 **A** No, I was not.

10 **Q** Okay. And you weren't present at the meetings during
11 the inauguration or the dinners at the inauguration between
12 FirstEnergy executives and Mr. Householder and Jeff
13 Longstreth?

14 **A** No, I was not.

15 **Q** Okay. And were you on a call between Chuck Jones and
16 Larry Householder in 2020 where he asked for money to
17 support his term limits initiative?

18 **A** No, I was not.

19 **Q** Okay. And do you have access to the Generation Now
20 bank account?

21 **A** No, not even close.

22 **Q** Okay. And do you have access to the JPL & Associates
23 bank account?

24 **A** No, ma'am.

25 **Q** What about the Ohioans For Energy Security bank

1 account?

2 **A** No, ma'am.

3 **Q** Okay. And you don't have access to the Growth and
4 Opportunity PAC bank account?

5 **A** No.

6 **Q** All right.

7 MS. GLATFELTER: Just one moment, Your Honor.

8 THE COURT: Very well.

9 MS. GLATFELTER: All right. Those are all of the
10 questions I have. Thank you very much.

11 THE WITNESS: Thank you.

12 THE COURT: Very well. Redirect?

13 MR. OLESKI: Just briefly, Judge.

14 Good afternoon.

15 THE WITNESS: Hello again.

16 **REDIRECT EXAMINATION**

17 **BY MR. OLESKI:**

18 **Q** You were asked some questions on cross-examination
19 about FirstEnergy support of the ZEN legislation; do you
20 recall those questions?

21 **A** Yes.

22 **Q** And was that why you were meeting with FirstEnergy
23 executives in Bonita Springs, Florida in February of 2017?

24 **A** Well, they had asked for the meeting, so I accompanied
25 the Speaker and the Speaker pro tem to the meeting they had

1 requested, yes.

2 MR. OLESKI: One moment to confer, Judge?

3 THE COURT: Yes.

4 MR. OLESKI: I don't have anything further for you,
5 sir. Thank you.

6 THE WITNESS: Thank you.

7 THE COURT: Anything further for this witness from
8 Mr. Borges?

9 MR. SCHNEIDER: (Shaking head.)

10 THE COURT: No. Anything from the government?

11 MS. GLATFELTER: No, Your Honor.

12 THE COURT: Thank you, Mr. Seitz. You're free to
13 go.

14 THE WITNESS: Thank you.

15 (Witness left the stand.)

16 THE COURT: Where do we stand from
17 Mr. Householder's perspective?

18 MR. GLICKMAN: Your Honor, we're prepared to call
19 our next witness. Unfortunately, because of the way of
20 rooms are situated for other witnesses, she's on another
21 floor. Can we please go get her?

22 THE COURT: I'm not available to go get her.

23 MR. GLICKMAN: I said may we please go get her?

24 THE COURT: Yes.

25 MR. GLICKMAN: Thank you.

1 (Pause.)

2 MR. GLICKMAN: Sorry about that.

3 THE COURT: Who does the defense call at this time?
4 Who does the defense call at this time?

5 MR. GLICKMAN: I'm sorry, Judge, I was just
6 coughing. I apologize.

7 THE COURT: Okay.

8 MR. GLICKMAN: Caryn Boyer, Judge.

9 THE COURT: If you would follow the woman with red
10 hair, please. And, ma'am, if you would stop where you are
11 and raise your right hand for the oath to tell the truth.

12 (Witness took the stand and was sworn.)

13 THE COURT: Come up to the witness stand. I tell
14 everybody this seat tips back in the spirit of full
15 disclosure. Once you're seated and comfortable, we need
16 your mouth close to that fancy federal microphone. If you
17 wish, you can take your mask off; you don't have to.

18 THE WITNESS: Okay.

19 THE COURT: Lawyers for Mr. Householder will begin
20 with some questions of you.

21 MR. GLICKMAN: Thank you, Judge.

22 THE COURT: Yes.

23 **DIRECT EXAMINATION**

24 **BY MR. GLICKMAN:**

25 **Q** Ms. Boyer, could you state your name and spell your

1 last name, please?

2 **A** Yeah. Caryn Boyer, B-O-Y-E-R.

3 **Q** Okay. And, Ms. Boyer, what do you do for a living?

4 **A** I'm a lawyer.

5 **Q** Okay. And as -- do you practice law under your maiden
6 name?

7 **A** Yes.

8 **Q** What is your maiden name?

9 **A** Kaufman, K-A-U-F-M-A-N.

10 **Q** And for whom are you employed?

11 **A** Taft Stettinius & Hollister.

12 **Q** Okay. And in your capacity as an attorney at Taft
13 Stettinius & Hollister, were you instructed to perform any
14 legal services for Larry Householder and Jeff Longstreth?

15 **A** Yes, for Mr. Householder.

16 **Q** Okay. And what were you instructed to perform?

17 **A** I was asked to prepare a contribution agreement and an
18 operating agreement. The terms --

19 **Q** Go ahead.

20 **A** The terms of the contribution agreement was that
21 Mr. Householder, Mr. Longstreth were going to -- going to go
22 into business together. The contribution agreement
23 presented what each of them were going to contribute to that
24 new entity, and then the operating agreement was the
25 governing document.

1 **Q** Okay. Of the entity?

2 **A** Um-hmm.

3 **Q** Okay. And was the entity going to be -- what
4 corporate form would the entity have?

5 **A** Oh, an LLC, a limited liability company.

6 **Q** In what state?

7 **A** Florida.

8 MR. GLICKMAN: Judge, just for the -- I apologize.
9 Just for the witness, could we -- and Counsel, could we
10 publish Householder Exhibit 20, please?

11 THE COURT: Yeah.

12 MR. GLICKMAN: Has not been admitted.

13 THE COURT: We'll show the exhibit to the witness
14 and the lawyers.

15 MR. GLICKMAN: PJ, can you just page through the
16 first four or five pages of that, please?

17 **Q** Okay. Do you recognize the document, ma'am?

18 **A** Yes.

19 **Q** Okay. Could you tell us what it is?

20 **A** It's the operating agreement for the entity.

21 **Q** Okay. Did that operating agreement -- were there
22 several drafts of the operating agreement?

23 **A** A few.

24 **Q** Is this one of them?

25 **A** Yes.

1 **Q** From what year?

2 **A** 2020.

3 **Q** Okay.

4 MR. GLICKMAN: I'm sorry, Judge, I'm just having
5 trouble getting my breath.

6 THE COURT: All right. Do you want to take a
7 break? You're making me nervous.

8 MR. GLICKMAN: No, it's not that bad.

9 THE COURT: Would you like a bottle of water?

10 MR. GLICKMAN: I have one, thank you.

11 THE COURT: I've got a special one.

12 **Q** Anyway, okay, so can you explain what type of company
13 this was? I know you said a limited liability company, but
14 what was its business purpose?

15 **A** So the limited liability company, its sole asset was
16 going to be a piece of property in Florida.

17 **Q** Okay. And is that reflected in the document?

18 **A** I think so, in the purpose section, it would be 3.1.

19 MR. GLICKMAN: So, Judge, ask that Householder
20 Exhibit 20 be admitted and published, please.

21 THE COURT: Any objection?

22 MS. GAFFNEY-PAINTER: No objection, Your Honor.

23 MR. SCHNEIDER: No objection.

24 THE COURT: It's admitted, you may publish.

25 **Q** Okay. And according to the instructions you received,

1 what was the -- what was Mr. Householder contributing to the
2 entity?

3 **A** The property.

4 **Q** Okay. And what about Mr. Longstreth?

5 **A** He was contributing cash.

6 **Q** Okay. And was that -- were those contributions then
7 reflected in the contribution agreement draft?

8 **A** That's right.

9 MR. GLICKMAN: Okay. PJ, can we page down a couple
10 of pages, please? Keep going. Just a minute.

11 **Q** Looking at page 4, Section 3.1, that says Purpose?

12 **A** Um-hmm.

13 **Q** Is that the -- is that the provision you were talking
14 about where the business would be defined?

15 **A** Yeah.

16 **Q** Okay. So what was the purpose of the business? And
17 if you need him to page one more down, we can do that.

18 **A** To own and manage the property and to --

19 THE WITNESS: If you can go to the next page.

20 MR. GLICKMAN: Can you go to the next page, PJ?

21 THE WITNESS: Yeah. To manage additional property.
22 I do remember a discussion where the possibility they might
23 use this entity for other real property acquisitions.

24 **Q** Okay.

25 **A** And then to do any other lawful act allowed by limited

1 liability companies in Florida.

2 MR. GLICKMAN: Thanks, PJ. You can take this down.
3 This has not been admitted, Judge, just for the witness,
4 Court and Counsel. PJ, could you please publish Householder
5 Exhibit 14?

6 THE COURT: Yes. We'll show it to the witness and
7 the lawyers.

8 Q Okay. Could you tell me what this document is?

9 A Yeah. This is the contribution agreement.

10 Q Okay. All right. And from what year is this
11 agreement?

12 A 2020.

13 Q Okay. How long were -- how long did this engagement
14 go for you from start to finish, if you remember? And if
15 you don't, we can show you some things to refresh, if that's
16 helpful.

17 A The first draft of the documents were in July of 2018,
18 and then the last communication I had was sending drafts,
19 updated drafts in May of 2020.

20 Q Okay. So it went on for just shy of two years?

21 A That's right.

22 Q Okay. All right. And again, the purpose of the
23 contribution agreement?

24 A So it would -- it's documenting what each party is
25 contributing to the entity.

1 MR. GLICKMAN: Okay. Judge, I'd ask that
2 Householder Exhibit 14 be admitted and published, please?

3 THE COURT: Any objection?

4 MS. GAFFNEY-PAINTER: No objection, Your Honor.

5 MR. SCHNEIDER: No objection.

6 THE COURT: It's admitted. You may publish.

7 MR. GLICKMAN: Okay. All right.

8 Q Your communications regarding this engagement, who was
9 your primary point of contact as far as the client was
10 concerned?

11 A My partner, Steve Cuckler, and then -- yeah.

12 Q Okay. When I say "your point of contact with the
13 client," I mean, was your primary point of contact with
14 Mr. Longstreth, with Mr. Householder or both?

15 A I didn't have any contact with Mr. Householder, but on
16 behalf of my client, Mr. Longstreth was his business
17 partner.

18 Q So when you would communicate with Mr. Longstreth,
19 would it generally be in electronic form?

20 A It's always electronic form, yes.

21 Q E-mail?

22 A Yes.

23 MR. GLICKMAN: Could we please pull up Householder
24 Exhibit 28, which has not been admitted, for counsel and the
25 Court and the witness?

1 THE COURT: Yes.

2 Q Okay. Do you recognize this document?

3 A Yes.

4 Q Okay. So is it -- you're copied on this e-mail. Who
5 else is on the e-mail?

6 A My colleague, Steve Cuckler and Jeff Longstreth.

7 Q Okay. And this is -- when you said you practiced law
8 under Caryn Kaufman, Ms. Boyer, this is you, Caryn Kaufman?

9 A Yes, that's right.

10 Q All right. And what's the date of this e-mail?

11 A July 14th, 2018.

12 Q Okay. And what is this e-mail regarding?

13 A When I sent the initial drafts of the documents, I had
14 a couple of questions regarding the terms of the operating
15 agreement and one of them was whether to include like a
16 buyout provision.

17 Q What's a buyout provision?

18 A Usually if you have two members, if they have a
19 fundamental disagreement on terms of how to manage the
20 company, there will be a provision that either party can
21 raise the dispute; and if they cannot resolve it, that one
22 of the parties can buyout the other party at fair market
23 value.

24 Q Okay. All right. And so the top e-mail --

25 A Um-hmm.

1 **Q** -- from Mr. Longstreth, is the "Steve and Caryn," you
2 and your colleague at Taft?

3 **A** That's right.

4 **Q** Okay. So is this Mr. Longstreth providing you
5 direction?

6 **A** Yes.

7 MR. GLICKMAN: Okay. Judge, I'd ask that
8 Householder Exhibit 28 be admitted and published?

9 THE COURT: Any objection?

10 MS. GAFFNEY-PAINTER: Your Honor, we don't object
11 to the content, but we would request that the witness be
12 voir dired about the nature of her privilege relationship
13 because this is a communication between Mr. Longstreth and
14 attorneys about legal advice. So we would need some factual
15 foundation that Mr. Longstreth doesn't hold the
16 attorney-client privilege here.

17 THE COURT: Do you want to explore that or you want
18 me to?

19 MR. GLICKMAN: I don't know that this witness is in
20 a position to answer but I can explore it, Judge.

21 THE COURT: Who was your client?

22 THE WITNESS: Mr. Householder.

23 THE COURT: Was Mr. Longstreth a partner -- a
24 client?

25 THE WITNESS: No.

1 THE COURT: And we're getting into attorney-client
2 privilege.

3 MR. GLICKMAN: I believe it's Mr. Householder's
4 privilege, Judge.

5 THE COURT: Is the government satisfied with the
6 voir dire or do you wish to pursue it yourself now?

7 MS. GAFFNEY-PAINTER: May I inquire just briefly,
8 Your Honor?

9 THE COURT: Yes.

10 MS. GAFFNEY-PAINTER: Ms. Boyer --

11 MR. GLICKMAN: Can I have just one moment? I don't
12 know that this is necessary. I may just withdraw it.

13 THE COURT: Okay.

14 MR. GLICKMAN: Judge, I'll withdraw.

15 THE COURT: All right.

16 **Q** Was a -- was part of the -- was part of this, the
17 contribution agreement, did it involve contributing money to
18 obtain a satisfaction of judgment?

19 **A** That's right.

20 MR. GLICKMAN: Okay. Judge, could we pull up
21 Householder Exhibit 25, just for the witness, Court and
22 counsel?

23 THE COURT: Yes.

24 **Q** Showing you Householder Exhibit 25, do you recognize
25 this judgment -- this satisfaction of judgment?

1 **A** Yes.

2 **Q** Okay. As part of the contribution agreement, was
3 there -- was money to be contributed by Mr. Longstreth to
4 satisfy a judgment involving Union Bank?

5 **A** Yes.

6 **Q** Okay. Is this that satisfaction of judgment
7 evidencing performance?

8 **A** I believe so.

9 MR. GLICKMAN: Judge, I'd ask that this exhibit be
10 admitted and published?

11 THE COURT: Any objection?

12 MS. GAFFNEY-PAINTER: No objection, Your Honor.

13 MR. SCHNEIDER: None.

14 THE COURT: It's admitted. You can publish.

15 MR. GLICKMAN: Just one moment, please, Judge.

16 THE COURT: Yes.

17 (Pause.)

18 MR. GLICKMAN: Judge, I'd ask -- there is one
19 e-mail that I would like to go into, so if there is -- if
20 there needs to be a voir dire, I guess now would be the
21 time.

22 THE COURT: I don't know what you're talking about.

23 MR. GLICKMAN: Just for Court and counsel, could
24 you pull up Householder Exhibit 31, please?

25 **Q** Do you recognize this e-mail?

1 **A** I do.

2 **Q** Okay. It's from whom?

3 **A** From me.

4 **Q** To?

5 **A** To Jeff Longstreth.

6 **Q** Okay. And regarding?

7 **A** Drafts of the documents.

8 **Q** Okay. So the documents, were the documents attached
9 to the e-mail?

10 **A** They were.

11 **Q** Okay. And this is an e-mail -- you said this is an
12 e-mail from you to Mr. Longstreth?

13 **A** That's right.

14 **Q** Okay. Was it regarding the documents related to the
15 limited liability company?

16 **A** That's right.

17 **Q** And the contribution agreement?

18 **A** That's right.

19 MR. GLICKMAN: Judge, I'd ask that Householder
20 Exhibit 31 be admitted and published.

21 THE COURT: Any objection?

22 MR. SCHNEIDER: No objection here.

23 MS. GAFFNEY-PAINTER: Your Honor, may we just
24 briefly voir dire the witness about the nature of the
25 privilege potentially here?

1 THE COURT: Yeah. You indicated Householder was
2 her client. Go ahead.

3 VOIR DIRE EXAMINATION

4 BY MS. GAFFNEY-PAINTER:

5 Q So Mr. Householder paid your fees; is that correct?

6 A We had the client engagement with Mr. Householder. I
7 don't know about the fees. The partner in charge would have
8 had that.

9 Q Okay. And I believe you testified that you never
10 spoke with Mr. Householder about this project?

11 A I did not.

12 Q You only spoke with Mr. Longstreth?

13 A That's right.

14 Q You, in your opinion as an attorney, do not believe
15 that there's any attorney-client privilege between you and
16 Mr. Longstreth?

17 A No, no. We represented Mr. Householder and Jeff was
18 the posing party to the transaction but not represented.

19 MS. GAFFNEY-PAINTER: May I have a moment to
20 confer?

21 THE COURT: Yes.

22 MS. GAFFNEY-PAINTER: No objection to the admission
23 of the exhibit, Your Honor.

24 THE COURT: Very well.

25 MR. GLICKMAN: Ask that it be published?

1 THE COURT: No objection from Mr. Borges as well.
2 Yes. It's admitted and you may publish.

3 MR. GLICKMAN: Thank you.

4 **DIRECT EXAMINATION (Continued.)**

5 **BY MR. GLICKMAN:**

6 **Q** Okay. So this e-mail, in the second paragraph, you
7 reference the contribution agreement?

8 **A** Um-hmm.

9 **Q** What do you ask Mr. Longstreth to do?

10 **A** Have them both sign the document.

11 **Q** All right. And in the next, the operating agreement?

12 **A** The same, that both need to be signed.

13 **Q** Okay. All right. And what are articles for 226
14 Belville, LLC?

15 **A** To create a new entity, you have to file articles of
16 organization with the state, Secretary of State's office.
17 So we would have filed that to create the entity on the
18 records in Florida.

19 **Q** And the deed that's listed, would that be the deed to
20 the home --

21 **A** That's right.

22 **Q** -- that we discussed?

23 All right. And was this your last communication with
24 Mr. Longstreth?

25 **A** That's right.

1 **Q** Okay. All right. And do you know whether or not
2 these documents were ever actually executed?

3 **A** I'm not aware.

4 MR. GLICKMAN: Okay. All right. Judge, I don't
5 have any further.

6 THE COURT: Very well. Counsel for Mr. Borges wish
7 to inquire?

8 MR. SCHNEIDER: No inquiry.

9 THE COURT: Government wish to examine?

10 MS. GAFFNEY-PAINTER: Just briefly, Your Honor.

11 THE COURT: Very well.

12 MS. GAFFNEY-PAINTER: May I approach?

13 THE COURT: Yes. Thank you.

14 MS. GAFFNEY-PAINTER: Good afternoon, Ms. Boyer.

15 **CROSS-EXAMINATION**

16 **BY MS. GAFFNEY-PAINTER:**

17 **Q** I believe you testified that you started work on this
18 project in 2018; is that correct?

19 **A** That's right.

20 **Q** And the project -- the last e-mail we just looked at,
21 Householder Exhibit 31, that was dated May of 2020; isn't
22 that right?

23 **A** That's right.

24 **Q** And in that intervening period between July -- or
25 excuse me, of 2018 through 2020, you had repeated

1 communications with Mr. Longstreth about this project,
2 right?

3 **A** That's right.

4 **Q** And at one point, this is in December of 2018,
5 Mr. Longstreth told you that he needed to get a couple of
6 questions answered by Larry Householder, right?

7 **A** That's right.

8 **Q** And you replied to him in May of 2019 following up,
9 trying to get the answers to those questions; isn't that
10 right?

11 **A** That's right.

12 **Q** And by November 12th, 2019, this project was still not
13 done, right?

14 **A** That's right.

15 **Q** Now, we just looked at Householder Exhibit 31, and in
16 that e-mail to Mr. Longstreth, you write: We never
17 finalized this project, right?

18 **A** That's right.

19 **Q** And at the time that you sent that e-mail, there were
20 still a number of documents that required Mr. Householder's
21 signature; isn't that right?

22 **A** That's right.

23 **Q** So there was the contribution agreement, isn't that
24 right?

25 **A** That's right.

1 **Q** And we already saw that as Householder Exhibit 14,
2 correct?

3 **A** That's right.

4 **Q** And you drafted that in 2018 for the first time,
5 right?

6 **A** For the first time, correct.

7 **Q** And then you redrafted it in 2020; is that right?

8 **A** Yes.

9 **Q** Okay. And then you also needed to get
10 Mr. Householder's signature on the operating agreement;
11 isn't that right?

12 **A** That's right.

13 **Q** And we saw that as Householder Exhibit No. 20; isn't
14 that right?

15 **A** That's right.

16 **Q** And there were also the articles for 226 Belville,
17 LLC, that needed Mr. Householder's signature; isn't that
18 right?

19 **A** Either him or Jeff Longstreth, they just need one
20 authorized representative to sign.

21 **Q** So either Mr. Longstreth or Mr. Householder could have
22 signed those articles?

23 **A** That's right.

24 **Q** And that was to create the Florida entity; is that
25 right?

1	A	Um-hmm, that's right.
---	----------	-----------------------

2 Q And those were the entity organization documents that
3 you represented you would get to Mr. Longstreth in November
4 of 2019, right?

5	A	Um-hmm.
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6 Q And they were not executed in May of 2020 when you
7 sent that e-mail; isn't that right?

8 **A** I'm not aware if they got -- if they were executed.

9 Q But at the time that you sent that e-mail, Householder
10 Exhibit 20, that was one of the entries in that e-mail that
11 you said still required a signature; isn't that right?

12	A That's right.
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13 Q And then the final document that still required
14 Mr. Householder's signature was the deed; is that right?

15	A That's right.
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16 Q And that's the deed to that House in Florida at 226
17 Belville, correct?

18 **A** Yes, that's right.

19 Q And just to be clear, as you sit here today, as far as
20 you're aware, those documents have never been signed,
21 correct?

22	A That's correct.
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23 MS. GAFFNEY-PAINTER: No further questions, Your
24 Honor.

25 THE COURT: Very well. Redirect, if any?

1 MR. GLICKMAN: No, thank you.

2 THE COURT: Very well. Are you a litigator?

3 THE WITNESS: No.

4 THE COURT: You are free to go.

5 THE WITNESS: Okay. Thank you.

6 (Witness left the stand.)

7 THE COURT: It's a few minutes after 4:20. Where
8 are we from Mr. Householder's perspective?

9 MR. GLICKMAN: Judge, given the hour, I would
10 suggest recessing until tomorrow.

11 THE COURT: I agree. Ladies and Gentlemen of the
12 Jury, we're into the defendant's case. You've heard two
13 witnesses, I think. I want you to take your break now and
14 go home. I want you to take a break from this because I
15 want you back tomorrow fired up and ready to go, as you have
16 been each and every day. During the break, of course, don't
17 discuss the case with anyone, including among yourselves.
18 No independent research. No checking out the media.
19 Continue to keep an open mind.

20 You know what I'm going to say now? Out of respect for
21 you, we'll rise as you leave.

22 THE DEPUTY: All rise for the jury.

23 (Jury exited the courtroom at 4:21 p.m.)

24 THE COURT: Jury has left the room. We remain in
25 session. As always, we'll wait to hear that the jurors have

1 cleared this floor before we recess. You can stand or sit
2 as you choose.

3 Is there anything I need to address before we adjourn
4 for the day after the jury has cleared the floor, first from
5 the government?

6 MS. GLATFELTER: Only that we need to -- we would
7 like to know the witnesses for tomorrow.

8 THE COURT: Are you in a position to be responsive
9 in that regard?

10 MR. OLESKI: Yes. We intend to call Jim Trakas,
11 Nino Vitale, Brett Hillyer, and Steve Cuckler.

12 THE COURT: And will that fill the day?

13 MR. OLESKI: I believe so, Judge.

14 THE COURT: All right. Anything further from
15 Mr. Householder's perspective?

16 MR. OLESKI: No. And just to confirm, Judge, we're
17 breaking at 3:00 p.m. tomorrow?

18 THE COURT: Good point. I should have told the
19 jury; the juror commissioner will. There's a juror who has
20 an unavoidable conflict. We're going to have to break at 3.
21 I was advised that you would be able to deal with that; is
22 that right?

23 MR. OLESKI: That's correct. I just wanted to
24 confirm that. I think we will fill up tomorrow until
25 3:00 p.m.

1 THE COURT: Now confirmed. Mr. Borges have
2 anything, Counsel?

3 MR. SCHNEIDER: No.

4 THE COURT: Very well. All clear. We are clear
5 and adjourned for the day.

6 THE DEPUTY: All rise. This court is adjourned.

7 (Proceedings concluded at 4:23 p.m.)

8 C E R T I F I C A T E

9 I certify that the foregoing is a correct transcript of
10 the record of proceedings in the above-entitled matter
prepared from my stenotype notes.

11 /s/ Lisa Conley Yungblut 03/02/2023
12 LISA CONLEY YUNGBLUT, RMR, CRR, CRC DATE
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